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of the

HOUSE OF REPRESENTATIVES

of the

General Assembly

of the

Commonwealth of Kentucky

2000 Regular Session

Volume II

Held in the State Capitol in the City of Frankfort,
at Frankfort, in the Year of Our Lord 2000,
and in the Two Hundred and Eighth
Year of the Commonwealth

Begun on Tuesday, the Fourth Day of January, 2000, and Adjourned
Sine Die on Friday, April 14, 2000

Paid for from state funds

FOREWORD

The Kentucky Constitution requires each house of the General Assembly to keep a journal as a public accounting of daily legislative activity. It is the official record of action by the General Assembly.

The *Kentucky Revised Statutes* require the Legislative Research Commission to compare, edit, correct, and publish the journals of each chamber. This is the *House Journal* for the Regular Session of 2000.

The texts of simple and concurrent resolutions appear on first reading or adoption. Appendices contain a list of elected representatives, tables of actions on bills and resolutions, roll call votes, the budget memorandum, and a subject index.

Wilda Bond, Kathy Green, and Stacy Smither prepared the *House Journal* for the 2000 Regular Session. The edited copy and appendices in this volume reflect the cooperative efforts of the LRC Staff.

Robert S. Sherman
Director

The Capitol
Frankfort, Kentucky
2000

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FEBRUARY 22, 2000

THIRTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Father Michael Ramler, Good Shepherd Catholic Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cox, Damron, and Riggs.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 18, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Report On Enrolled Bills

HB 18, HB 81, HB 84, HB 166, and **HB 168** delivered to the Senate and signed by the President. Delivered to the Governor on February 22, 2000, at 2:20 p.m.

Introduction of Bills and Resolutions

HB 761, by Representative Ballard: AN ACT relating to driver's education.

HB 762, by Representative Bather: AN ACT relating to Medicaid.

HB 763, by Representatives A. Arnold and Geveden: AN ACT relating to state employees.

HB 764, by Representative Geveden: AN ACT relating to preneed burial arrangements.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 758**

Banking and Insurance: **HB 754, HB 757, HB 760**

Education: **SB 91**

Health and Welfare: **HB 753, SB 98, SB 100, SB 174, SB 212**

Judiciary: **SB 116**

Local Government: **SB 130**

Natural Resources and Environment: **HB 755, HB 756, HCR 108**

State Government: **SB 166, SB 190, SB 202, SCR 39**

Transportation: **HB 759, SB 132**

Report of Committees

The Committee on State Government reported **HB 380**, with Committee Substitute attached thereto, **HB 510**, with Committee Substitute attached thereto, **HB 511**, **HB 544**, **HB 562**, with Committee Substitute attached thereto, **HB 571**, **HB 603**, **HB 605**, **HB 692**, and **HB 694**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 380, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a member of the minority group even if the list of nominees for a vacancy does not include a member of the minority group.

(4) ***In making initial appointments to administrative boards and commissions, the Governor shall act so as to provide equal representation of the two (2) sexes. In filling vacancies, the Governor shall act so as to provide, inasmuch as possible, equal representation of the two (2) sexes by appointing a member of the sex that is the lesser represented at the time of the appointment. If the remaining membership already has an equal number of males and females, the Governor may appoint a member of either sex.***

(5) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(6)[~~(5)~~]When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

Section 2. KRS 164.004 is amended to read as follows:

(1) The Strategic Committee on Postsecondary Education is hereby created and established. The committee shall be composed of members appointed by the Council on Postsecondary Education, the Governor, and the General Assembly. The council's representatives shall consist of the chair of the council, the president of the council, and five (5) members of the council designated by the chair. The Governor's representatives shall consist of the Governor and six (6) persons designated by the Governor. The General Assembly's representatives shall consist of the President of the Senate, the Speaker of the House of Representatives, the Majority and Minority Floor Leaders of both chambers of the General Assembly, the minority caucus chair of each chamber, a member appointed by the President of the Senate, a member appointed by the Speaker of the House of Representatives, a member appointed by the Minority Floor Leader of the Senate, a member appointed by the Minority Floor Leader of the House of Representatives, and the chair of the Committee on Appropriations and Revenue of each chamber.

(2) The chair of the council shall serve as chair of the committee. The committee shall meet at least quarterly and at other times upon the written call of the chair or of majorities of any two (2) of the three (3) groups that compose the committee.

(3) Nonlegislative members of the committee shall serve without compensation but shall be reimbursed for their actual and necessary expenses, as set forth in KRS 12.070*(6)*[~~(5)~~]. Committee members who are Kentucky legislators shall be compensated for attendance at committee meetings from the legislative branch budget bill and as set forth in KRS 6.190.

(4) The committee shall serve as a forum for the council and the elected leadership of the Commonwealth to exchange ideas about the future of postsecondary education in Kentucky.

(5) The council shall periodically review its strategic implementation plan for the strategic agenda under KRS 164.0203 and advise the committee of the actions necessary to meet the goals established in KRS 164.003(2). The elected leaders shall review and comment on the strategic agenda and the timetable for implementation.

(6) The Governor shall advise the committee about the financial condition of the Commonwealth and the probable funds the executive branch intends to recommend to the General Assembly to be appropriated for postsecondary education.

(7) The legislative members shall react to the comments of the council and the Governor.

(8) The council shall advise the committee about its opinion of how the postsecondary education funds projected to be available should be allocated based on priorities and projected resources. Nothing in this section shall be construed to infringe upon the Governor's duty under KRS 48.100 to recommend appropriations to the General Assembly or upon the General Assembly's power to make final appropriations in the enacted budget.

(9) The committee shall have the advisory authority not explicitly prohibited by law that is necessary to carry out and effectuate its advisory functions, duties, and responsibilities, including the following:

(a) Receive reports from the council on the development and implementation of the long-term strategic agenda, including biennial budget requests for postsecondary education and any subsequent and related budget requests;

(b) Review the council's proposed objectives and benchmarks for the next fiscal biennium for furthering the Commonwealth's achievement of the goals set out in KRS 164.003(2);

(c) Consider and advise the council on the general budget parameters regarding development of the postsecondary budget for the next fiscal biennium;

(d) Review biennial budget requests from the council for the next fiscal biennium including base funding, increases in base funding, and funding for a strategic investment and incentive funding program, including criteria to be used in allocating these funds to institutions;

(e) Receive from the council, at least annually and on a more frequent basis if requested by the committee, accountability reports, budget information, and other information the committee deems proper; and

(f) Serve as the search committee for the review and consideration of candidates to be presented to the council for the initial appointment to the position of president of the Council on Postsecondary Education. Each group of the committee shall have one (1) vote on the search committee. The vote of each group shall be determined by a majority of the members of that group.

The Committee Substitute No. 1 to **HB 380** is as follows:

HB 380, AN ACT relating to boards and commissions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.070 is amended to read as follows:

(1) For the purpose of this section, "minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented on state boards and commissions.

(2) Except as otherwise expressly provided by law, the members of each administrative board or commission shall be citizens of Kentucky appointed by the Governor from the state at large on the basis of their interests in public affairs, their good judgment, and their knowledge and ability in the field of action of the department for which appointed, with a view to providing diversity of interests and points of view in the membership and without regard to their political or religious opinions or affiliations.

(3) Where appointments to administrative boards and commissions are made from lists submitted to him, the Governor may reject the list and require that other lists be submitted. Notwithstanding any provision to the contrary, in the event the current membership of a board or commission ***does not reflect gender equity or*** reflects a proportion of the minority group less than the proportion of the minority group in the total population of the Commonwealth, then the Governor may appoint a ***male or female so as to achieve as much as possible gender equity or a*** member of the minority group even if the list of nominees for a vacancy does not include a member of the ***particular gender needed to achieve gender equity or a member of the*** minority group.

(4) Before entering upon the duties of their office, all members of administrative boards and commissions shall take the oath of office prescribed by Section 228 of the Constitution.

(5) When a board, commission, or similar administrative body is established and no provision is made for compensation of members, members shall serve without pay, but may receive reimbursement for their actual and necessary expenses.

HB 510, AN ACT relating to the executive branch code of ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half

brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received***; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public***;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts;

(h) Each Railroad Commissioner; and

(i) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (h) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;[~~ and~~]

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else***; and***

(18) "Directly involved" means to work on personally or to supervise someone who works on personally.

Section 2. KRS 11A.045 is amended to read as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept ***any***[~~tangible~~] gifts or gratuities***, including travel expenses, meals, alcoholic beverages, and honoraria,*** totaling a value greater than twenty-five dollars ($25) in a single calendar year[~~, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value,~~] from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. ***Nothing***

contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.[~~The following items are exempt:~~

~~(a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;~~

~~(b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;~~

~~(c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;~~

~~(d) A campaign contribution to an employee's own campaign if in compliance with KRS Chapters 121 and 121A and all other campaign finance laws;~~

~~(e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;~~

~~(f) Food, clothing, and shelter in times of natural disaster or other emergency;~~

~~(g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;~~

~~(h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;~~

~~(i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;~~

~~(j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;~~

~~(k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and~~

~~(l) A single copy of a textbook received by an educator for review.~~]

(2) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

(a) Was not solicited by the public servant;

(b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Section 3. KRS 11A.050 is amended to read as follows:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (h), and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (h) who occupies his position during any portion of a calendar year shall file the statement for that ***portion of the calendar year he occupied the position***[~~entire calendar year~~] on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to (h).

(b) ***Each officer and public servant listed in KRS 11A.010(9)(a) to (h) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (h) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (h). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (h).***

(c) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his spouse in any business, ***and the name and address of the business***[~~partnership, or corporation for profit~~];

(e) Names and addresses of all businesses in which the filer, his spouse, or dependent children has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) ***The name and address of any source of gross income exceeding five hundred dollars ($500) from any one (1) source to***[~~Sources of gross income of~~] the filer,[~~ or~~] his spouse, ***or dependent child,*** as well as information concerning the nature of the business, and the form of the income;

(g) Sources of retainers received by the filer or his spouse ***relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would serve in a decision-making capacity, including each source's name and address***;

(h) Any representation or intervention for compensation by the filer or his spouse for any person ***or business*** before ***a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business***[~~ policy-making entities in state government~~];

(i) All positions of a fiduciary nature ***held by the filer or his spouse*** in a business***, including the name and address of the business***;

(j) Information***, including a street address or location,*** regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his spouse, or dependent children;

(k) Sources***, including each source's name and address,*** of gifts of money or property with a retail value of more than two hundred dollars ($200) ***from any one (1) source*** to the filer, his spouse, or dependent children, except those from ***a member of the filer's family***[~~spouse, parents, or grandparents~~]; and

(l) Identity***, including an address,*** of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

SECTION 4. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

An agency that is directed by statute to adopt a code of ethics shall be exempt from KRS Chapter 11A upon the effective date of an Act of the General Assembly creating the agency's code of ethics or upon the effective date of an administrative regulation that creates the agency's code of ethics.

Section 5. KRS 11A.060 is amended to read as follows:

(1) The Executive Branch Ethics Commission is hereby established.

(2) The commission shall be composed of five (5) members appointed***, on a rotating basis,*** by the Governor***, the Attorney General, and the Auditor of Public Accounts, beginning with the Governor***.

(3) Members of the commission shall serve staggered terms of four (4) years. Of the initial members appointed as provided in this section, one (1) member shall serve a term of one (1) year, one (1) member shall serve a term of two (2) years, one (1) member shall serve a term of three (3) years, and two (2) members shall be appointed for terms of four (4) years. Thereafter, all appointments shall be for four (4) years.

(4) The commission shall elect from its membership a chairman and vice chairman. In the absence of the chairman or in the event of a vacancy in that position, the vice chairman shall serve as chairman.

(5) A member of the commission shall receive one hundred dollars ($100) per day for attending meetings and shall be reimbursed for actual and necessary expenses incurred in the performance of duties.

(6) All members shall be registered voters of the state.

(7) Members of the commission shall be removed by the Governor for cause only, including substantial neglect of duty and inability to discharge the powers and duties of office.

(8) A quorum shall consist of three (3) or more members. An affirmative vote of three (3) or more members shall be necessary for commission action.

(9) The commission shall meet at the call of the chairman or a majority of its members.

(10) The commission shall be attached to the office of the Governor for administrative purposes only.

Section 6. KRS 11A.080 is amended to read as follows:

(1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.

(b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.

(c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:

(a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings;

(b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party***;***

(c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the matter.

(3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.

(4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an administrative proceeding to determine whether there has been a violation.

Section 7. KRS 11A.100 is amended to read as follows:

(1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings.

(2) All administrative hearings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(3) The commission, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter, may:

(a) Issue an order requiring the violator to cease and desist the violation; ***and***

(b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter; ***and***

(c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any; ***and***

(d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; ***and***[~~or~~]

(e) Issue an order requiring the violator to pay a civil penalty of not more than ***five***[~~two~~] thousand dollars ***($5,000)***[~~($2,000)~~] for each violation of this chapter.

(4) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.

(5) The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

Section 8. KRS 11A.990 is amended to read as follows:

(1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:
   (a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that the offender is disqualified to hold office thereafter; and
   (b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.

(2) Any officer, public servant, or candidate required to file a statement of financial disclosure ***under***~~[pursuant to]~~ KRS 11A.050 who does not file the statement by a date specified in that section shall have his salary withheld from the first day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall ~~[not]~~ be recoverable ***upon the filing of the statement of financial disclosure***~~[pursuant to Section 235 of the Constitution of Kentucky]~~. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.

(3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.

(4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from the date of the violation.

Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars ($5,000). For the second and each subsequent violation, he shall be guilty of a Class D felony.

(5) Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000).

(6) Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he knows to contain false information or to omit required information shall be guilty of a Class D felony.

(7) An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

(8) Violation of KRS 11A.236 is a Class D felony.

The Committee Substitute No. 1 to **HB 510** is as follows:

HB 510, AN ACT relating to the executive branch code of ethics.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received***; "gift" does not include gifts from family members, campaign contributions, or door prizes available to the public***;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels,

commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

(a) The Governor;

(b) The Lieutenant Governor;

(c) The Secretary of State;

(d) The Attorney General;

(e) The Treasurer;

(f) The Commissioner of Agriculture;

(g) The Auditor of Public Accounts;

(h) Each Railroad Commissioner; and

(i) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (h) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;~~[and]~~

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else***; and***

(18) "Directly involved" means to work on personally or to supervise someone who works on personally.

Section 2. KRS 11A.040 is amended to read as follows:

(1) No public servant, in order to further his own economic interests, or those of any other person, shall knowingly disclose or use confidential information acquired in the course of his official duties.

(2) No public servant shall knowingly receive, directly or indirectly, any interest or profit arising from the use or loan of public funds in his hands or to be raised through any state agency.

(3) No public servant shall knowingly act as a representative or agent for the Commonwealth or any agency in the transaction of any business or regulatory action with himself, or with any business in which he or a member of his family has any interest greater than five percent (5%) of the total value thereof.

(4) No public servant shall knowingly himself or through any business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he is employed or which he supervises, subject to the provisions of KRS 45A.340. This provision shall not apply to:

(a) A contract, purchase, or good faith negotiation made pursuant to KRS Chapter 416 relating to eminent domain; or

(b) Agreements which may directly or indirectly involve public funds disbursed through entitlement programs; or

(c) A public servant's spouse or child doing business with any state agency other than the agency by which the public servant is employed or which he supervises; or

(d) Purchases from a state agency that are available on the same terms to the general public or that are made at public auction.

(5) No public servant shall knowingly accept compensation, other than that provided by law for public servants, for performance of his official duties without the prior approval of the commission.

(6) No former officer or public servant listed in KRS 11A.010(9)(a) to (h) shall, within six (6) months of termination of his employment, knowingly by himself or through any business in which he owns or controls an interest of at least five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, bid on, negotiate, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the agency by which he was employed. This provision shall not apply to a contract, purchase, or good faith negotiation made under KRS Chapter 416 relating to eminent domain or to agreements that may directly or indirectly involve public funds disbursed through entitlement programs. This provision shall not apply to purchases from a state agency that are available on the same terms to the general public or that are made at public auction. ***This provision shall not apply to former officers of the Department of Public Advocacy whose continued representation of clients is necessary in order to prevent an adverse effect on the client.***

(7) No present or former officer or public servant listed in KRS 11A.010(9)(a) to (h) shall, within six (6) months following termination of his office or employment, accept employment, compensation, or other economic benefit from any person or business that contracts or does business with, or is regulated by, the state in matters in which he was directly involved during the last thirty-six (36) months of his tenure. This provision shall not prohibit an individual from returning to the same business, firm, occupation, or profession in which he was involved prior to taking office or beginning his term of employment, or for which he received, prior to his state employment, a professional degree or license, provided that, for a period of six (6) months, he personally refrains from working on any matter in which he was directly involved during the last thirty-six (36) months of his tenure in state government. This subsection shall not prohibit the performance of ministerial functions including, but not limited to, filing tax returns, filing applications for permits or licenses, or filing incorporation papers, nor shall it prohibit the former officer or public servant from receiving public funds disbursed through entitlement programs.

(8) A former public servant shall not act as a lobbyist or lobbyist's principal in matters in which he was directly involved during the last thirty-six (36) months of his tenure for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(9) A former public servant shall not represent a person or business before a state agency in a matter in which the former public servant was directly involved during the last thirty-six (36) months of his tenure, for a period of one (1) year after the latter of:

(a) The date of leaving office or termination of employment; or

(b) The date the term of office expires to which the public servant was elected.

(10) Without the approval of his appointing authority, no public servant shall accept outside employment from any person or business that does business with or is regulated by the state agency for which the public servant works or which he supervises, unless the outside employer's relationship with the state agency is limited to the receipt of entitlement funds.

(a) The appointing authority shall review administrative regulations established under KRS Chapter 11A when deciding whether to approve outside employment for a public servant.

(b) The appointing authority shall not approve outside employment for a public servant if the public servant is involved in decision-making or recommendations concerning the person or business from which the public servant seeks outside employment or compensation.

(c) The appointing authority, if applicable, shall file quarterly with the Executive Branch Ethics Commission a list of all employees who have been approved for outside employment along with the name of the outside employer of each.

(11) The prohibitions imposed by subsection (5) or (10) of this section shall not apply to Professional Golfers' Association class A members who teach golf lessons and receive a fee or lesson charge at golf courses owned and operated by the Kentucky Department of Parks. Instruction provided by an employee of the Commonwealth shall only be given while the employee is on his or her own personal time. The commissioner of the Department of Parks shall promulgate administrative regulations to establish guidelines for the process by which Professional Golfers' Association class A members are approved to teach golf lessons at Kentucky Department of Parks-owned golf courses. The exception granted by this subsection is in recognition of the benefits that will accrue to the Kentucky Department of Parks due to increased participation at state-owned golf courses.

Section 3. KRS 11A.045 is amended to read as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept ***any***~~[tangible]~~ gifts or gratuities~~,~~ ***including travel expenses, meals, alcoholic beverages, and honoraria,*** totaling a value greater than twenty-five dollars ($25) in a single calendar year~~[, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value,]~~ from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. ***Nothing contained in this subsection shall prohibit the commission from authorizing exceptions to this subsection where such exemption would not create an appearance of impropriety.***~~[The following items are exempt:~~

~~(a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;~~

~~(b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;~~

~~(c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;~~

~~(d) A campaign contribution to an employee's own campaign if in compliance with KRS Chapters 121 and 121A and all other campaign finance laws;~~

~~(e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;~~

~~(f) Food, clothing, and shelter in times of natural disaster or other emergency;~~

~~(g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;~~

~~(h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;~~

~~(i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;~~

~~(j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;~~

~~(k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and~~

~~(l) A single copy of a textbook received by an educator for review.]~~

(2) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

(a) Was not solicited by the public servant;

(b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521.

Section 4. KRS 11A.050 is amended to read as follows:

(1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (h), and each candidate shall file a statement of financial disclosure with the commission, as follows:

(a) Each officer and each public servant listed in KRS 11A.010(9)(a) to (h) who occupies his position during any portion of a calendar year shall file the statement for that ***portion of the calendar year he occupied the position***~~[entire calendar year]~~ on or before April 15 of the following year, whether or not he remains an officer or public servant as listed in KRS 11A.010(9)(a) to (h).

(b) ***Each officer and public servant listed in KRS 11A.010(9)(a) to (h) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (h) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (h). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (h).***

(c) A candidate shall file the statement reflecting the previous calendar year with the commission no later than

February 15.

(2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.

(3) The statement shall include the following information for the preceding calendar year:

(a) Name and entire residential and business address of filer;

(b) Title of position or office whereby filing is required;

(c) Any other occupations of filer and spouse;

(d) Positions held by the filer or his spouse in any business, ***and the name and address of the business***[~~partnership, or corporation for profit~~];

(e) Names and addresses of all businesses in which the filer, his spouse, or dependent children has or had an interest of ten thousand dollars ($10,000) at fair market value or five percent (5%) ownership interest or more;

(f) ***The name and address of any source of gross income exceeding one thousand dollars ($1,000) from any one (1) source to***[~~Sources of gross income of~~] the filer***,***[~~, or~~] his spouse, ***or dependent child,*** as well as information concerning the nature of the business, and the form of the income;

(g) Sources of retainers received by the filer or his spouse ***relating to matters of the state agency for which the filer works or supervises or of any other entity of state government for which the filer would serve in a decision-making capacity, including each source's name and address***;

(h) Any representation or intervention for compensation by the filer or his spouse for any person ***or business*** before ***a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business***[~~ policy-making entities in state government~~];

(i) All positions of a fiduciary nature ***held by the filer or his spouse*** in a business***, including the name and address of the business***;

(j) Information***, including a street address or location,*** regarding any real property in which there is an interest of ten thousand dollars ($10,000) or more held by the filer, his spouse, or dependent children;

(k) Sources***, including each source's name and address,*** of gifts of money or property with a retail value of more than two hundred dollars ($200) ***from any one (1) source*** to the filer, his spouse, or dependent children, except those from ***a member of the filer's family***[~~spouse, parents, or grandparents~~]; and

(l) Identity***, including an address,*** of creditors owed more than ten thousand dollars ($10,000), except debts arising from the purchase of consumer goods.

Paragraphs (a) to (l) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

An agency that is directed by statute to adopt a code of ethics shall be exempt from KRS Chapter 11A upon the effective date of an Act of the General Assembly creating the agency's code of ethics or upon the effective date of an administrative regulation that creates the agency's code of ethics.

Section 6. KRS 11A.080 is amended to read as follows:

(1) (a) Upon a complaint signed under penalty of perjury by any person, or upon its own motion, the commission shall conduct a preliminary investigation of any alleged violation of this chapter.

(b) The preliminary investigation shall begin not later than ten (10) days after the next commission meeting following the receipt of the sworn complaint, or, if the investigation is initiated by the commission's own motion, not later than ten (10) days after the date of the adoption of the motion.

(c) Within ten (10) days of the commencement of the preliminary investigation, the commission shall forward a copy of the complaint, if one has been filed, or a statement of possible violations being investigated, and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings and records relating to a preliminary investigation shall be confidential until a final determination is made by the commission, except:

(a) The commission may turn over to the Attorney General, the United States Attorney, or the Commonwealth's Attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings;

(b) If the alleged violator publicly discloses the existence of a preliminary investigation, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party***;***

(c) If the matter being investigated was referred to the commission from another state agency, the commission may inform the referring state agency of the status of any preliminary investigation and of any action taken on the

matter.

(3) If the commission determines in the preliminary investigation that the facts are not sufficient to constitute a violation of this chapter, the commission shall immediately terminate the investigation and notify in writing the complainant, if any, and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the resolution and, in its discretion, make public any documents which were issued to the alleged violator.

(4) If the commission, during the course of the preliminary investigation, finds probable cause to believe that a violation of this chapter has occurred, the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, in writing, confidentially reprimand the alleged violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any. If the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an administrative proceeding to determine whether there has been a violation.

Section 7. KRS 11A.100 is amended to read as follows:

(1) The provisions of KRS Chapter 13B shall apply to all commission administrative hearings.

(2) All administrative hearings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(3) The commission, upon a finding pursuant to an administrative hearing that there has been clear and convincing proof of a violation of this chapter, may:

(a) Issue an order requiring the violator to cease and desist the violation; ***and***

(b) Issue an order requiring the violator to file any report, statement, or other information as required by this chapter; ***and***

(c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the alleged violator's appointing authority, if any; ***and***

(d) In writing, recommend to the violator's appointing authority that the violator be removed or suspended from office or employment, and include a recommendation for length of suspension, to be approved by the appointing authority, if any; ***and***[~~or~~]

(e) Issue an order requiring the violator to pay a civil penalty of not more than ***five***[~~two~~] thousand dollars ***($5,000)***[~~($2,000)~~] for each violation of this chapter.

(4) In addition to any other remedies provided by law, any violation of this chapter which has substantially influenced the action taken by any state agency in any particular matter shall be grounds for voiding, rescinding, or canceling the action on such terms as the interests of the state and innocent third persons require.

(5) The commission shall refer to the Attorney General evidence of violations of KRS 11A.040 for prosecution. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation. The commission may represent itself through the general counsel in all subsequent proceedings.

Section 8. KRS 11A.990 is amended to read as follows:

(1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:

(a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that the offender is disqualified to hold office thereafter; and

(b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.

(2) Any officer, public servant, or candidate required to file a statement of financial disclosure ***under***[~~pursuant to~~] KRS 11A.050 who does not file the statement by a date specified in that section shall have his salary withheld from the first day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall [~~not~~] be recoverable ***upon the filing of the statement of financial disclosure***[~~pursuant to Section 235 of the Constitution of Kentucky~~]. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.

(3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.

(4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from

the date of the violation.

Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars ($5,000). For the second and each subsequent violation, he shall be guilty of a Class D felony.

(5) Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000).

(6) Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he knows to contain false information or to omit required information shall be guilty of a Class D felony.

(7) An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

(8) Violation of KRS 11A.236 is a Class D felony.

HB 511, AN ACT relating to the executive branch ethics code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.211 is amended to read as follows:

(1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission within ten (10) days following the engagement of an executive agency lobbyist, an initial registration statement showing all of the following:

(a) The name, business address, and occupation of the executive agency lobbyist;

(b) The name and business address of the employer and of any real party in interest on whose behalf the executive agency lobbyist is acting, if it is different from the employer. However, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement need not list the names and addresses of every member of the association or organization, so long as the association or organization itself is listed;

(c) A brief description of the executive agency decision to which the engagement relates;

(d) The name of the executive agency or agencies to which the engagement relates; and

(e) Certification by the employer and executive agency lobbyist that the information contained in the registration statement is complete and accurate.

(2) In addition to the initial registration statement required by subsection (1) of this section, each executive agency lobbyist, employer, and real party in interest shall file with the commission, not later than the last day of~~[January and]~~ July of each year, an updated registration statement that confirms the continuing existence of each engagement described in an initial registration statement and that lists the specific executive agency decisions the executive agency lobbyist sought to influence under the engagement during the period covered by the updated statement, and with it any statement of expenditures required to be filed by KRS 11A.216 and any details of financial transaction required to be filed by KRS 11A.221.

(3) If an executive agency lobbyist is engaged by more than one (1) employer, the executive agency lobbyist shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) executive agency lobbyist, the employer shall file only one (1) updated registration statement under subsection (2) of this section, which shall contain the information required by subsection (2) of this section regarding all executive agency lobbyists engaged by the employer.

(4) (a) A change in any information required by subsection (1)(a), (b), (c), (d), or (2) of this section shall be reflected in the next updated registration statement filed under subsection (2) of this section.

(b) Within thirty (30) days following the termination of an engagement, the executive agency lobbyist who was employed under the engagement shall file written notice of the termination with the commission.

(5) No registration fee shall be charged for filing a registration statement.

(6) Upon registration pursuant to this section, an executive agency lobbyist shall be issued a card annually by the commission showing the executive agency lobbyist is registered. The registration card shall be valid from the date of its issuance through the thirty-first day of ***July***~~[January]~~ of the following year.

(7) The commission shall review each registration statement filed with the commission under this section to determine if the statement contains all of the required information. If the commission determines the registration statement does not contain all of the required information or that an executive agency lobbyist, employer, or real party in interest has failed to

file a registration statement, the commission shall send written notification of the deficiency by certified mail to the person who filed the registration statement or to the person who failed to file the registration statement regarding the failure. Any person so notified by the commission shall, not later than fifteen (15) days after receiving the notice, file a registration statement or an amended registration statement that includes all of the required information. If any person who receives a notice under this subsection fails to file a registration statement or an amended registration statement within the fifteen (15) day period, the commission may initiate an investigation of the person's failure to file. If the commission initiates an investigation pursuant to this section, the commission shall also notify each elected executive official and the secretary of each cabinet listed in KRS 12.250 of the pending investigation.

(8) ***In the biennial report published under KRS 11A.110(13)***[~~On or before the fifteenth day of March of each year~~], the commission shall, in the manner and form the commission determines, ***include***[~~publish~~] a report containing statistical information on the registration statements filed under this section during the preceding ***biennium***[~~year~~].

(9) If an employer who engages an executive agency lobbyist, or a real party in interest on whose behalf the executive agency lobbyist was engaged is the recipient of a contract, grant, lease, or other financial arrangement pursuant to which funds of the state or of an executive agency are distributed or allocated, the executive agency or any aggrieved party may consider the failure of the real party in interest, the employer, or the executive agency lobbyist to comply with this section as a breach of a material condition of the contract, grant, lease, or other financial arrangement.

(10) Executive agency officials may require certification from any person seeking the award of a contract, grant, lease, or financial arrangement that the person, his employer, and any real party in interest are in compliance with this section.

Section 2. KRS 11A.216 is amended to read as follows:

(1) Each executive agency lobbyist, employer, and real party in interest shall file with the commission, with the updated registration statement required by KRS 11A.211(2), a statement of expenditures as specified in subsections (2) and (3) of this section. An executive agency lobbyist shall file a separate statement of expenditures under this section for each employer engaging him.

(2) (a) In addition to the information required by paragraph (b) of this subsection, a statement filed by an executive agency lobbyist shall show the total amount of expenditures made by the lobbyist during the reporting period covered by the statement by the executive agency lobbyist.

(b) 1. If, during a ***fiscal***[~~calendar~~] year, the real party in interest, the employer or any executive agency lobbyist he engaged made expenditures to, or on behalf of a particular elected executive official, the secretary of a cabinet listed in KRS 12.250, a particular executive agency official, or a particular member of the staff of any of those officials, the real party in interest, employer or executive agency lobbyist also shall state the name of the official or employee on whose behalf the expenditures were made, the total amount of the expenditures made, a brief description of the expenditures made, and the approximate date the expenditures were made.

2. Expenditures shall be reported on the expenditure statement for the reporting period that includes the date on which the expenditure was made.

(3) (a) In addition to the information required by subsection (2)(b) of this section, a statement filed by a real party in interest or an employer shall show the total amount of expenditures during the period covered by the statement. As used in this subsection, "expenditures" does not include the expenses of maintaining office facilities or support services for executive agency lobbyists.

(b) An employer or real party in interest shall not be required to show any expenditure on a statement filed under this subsection if the expenditure is reported on a statement filed under subsection (2)(a) or (b) of this section by an executive agency lobbyist engaged by the employer.

(4) Any statement required to be filed under this section shall be filed at the times specified in KRS 11A.211. Each statement shall cover expenditures made during the ***prior fiscal year***[~~six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed~~].

(5) If it is impractical or impossible for an executive agency lobbyist, employer, or real party in interest to determine exact dollar amounts or values of expenditures, reporting of good faith estimates, based on reasonable accounting procedures, constitutes compliance with this section.

(6) Executive agency lobbyists, employers, and real parties in interest shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the ***thirtieth***[~~thirty-first~~] day of ***June***[~~December~~] of the second ***fiscal***[~~calendar~~] year after the year in which the expenditure was made.

(7) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file an expenditure statement under subsection (2)(b) of this section shall deliver a copy of the statement, or the portion showing the expenditure, to the official or employee who is listed in the statement as having received the expenditure or on whose behalf it was made.

Section 3. KRS 11A.221 is amended to read as follows:

(1) Any executive agency lobbyist who has had any financial transaction with, or for the benefit of, an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). Each statement shall describe each financial transaction that occurred during the ***prior fiscal year***~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed]~~.

(2) Except as provided in subsection (5) of this section, any employer who has had any financial transaction with or for the benefit of an elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the ***prior fiscal year***~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed]~~.

(3) Except as provided in subsection (6) of this section, any real party in interest who has had any financial transaction with or for the benefit of any elected executive official, the secretary of a cabinet listed in KRS 12.250, an executive agency official, or any member of the staff of any of those officials shall describe the details of the transaction, including the name of the official or employee, the purpose and nature of the transaction, and the date it was made or entered into, in a statement filed with the commission with the updated registration statement required by KRS 11A.211(2). The statement shall be filed at the times specified in KRS 11A.211. Each statement shall describe each financial transaction that occurred during the ***prior fiscal year***~~[six (6) calendar month period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed]~~.

(4) At least ten (10) days before the date on which the statement is filed, each employer, executive agency lobbyist, or real party in interest who is required to file a statement describing a financial transaction under this section shall deliver a copy of the statement to the official or employee with whom or for whose benefit the transaction was made.

(5) An employer shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an executive agency lobbyist engaged by the employer.

(6) A real party in interest shall not be required to file any statement under this section or to deliver a copy of the statement to an official or employee with whom or for whose benefit the transaction was made if the financial transaction to which the statement pertains is reported by an executive agency lobbyist who is acting on behalf of the real party in interest.

Section 4. KRS 11A.241 is amended to read as follows:

(1) The commission shall keep on file the statements required by KRS 11A.211, 11A.216, and 11A.221. These statements are public records and open to public inspection, and the commission shall computerize them so the information contained in them is readily accessible to the general public. The commission shall provide copies of the statements to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the statement.

(2) Not later than the last day of~~[February and]~~ August of each year, the commission shall compile from the registration statements filed with it a complete and updated list of registered executive agency lobbyists and their employers, and real parties in interest and distribute the list to each elected executive branch official and the secretary of each cabinet listed in KRS 12.250, who shall distribute the list to the appropriate personnel under their jurisdiction. The commission shall provide copies of the list to the public upon request and may charge a reasonable fee not to exceed the cost of copying and delivering the list.

(3) The commission shall maintain a list of all executive agency lobbyists. The commission shall provide copies of the list to the public on request and may charge a reasonable fee not to exceed the cost of copying and delivering the document.

(4) The commission shall prescribe and make available an appropriate form for the filings required by KRS 11A.211, 11A.216, and 11A.221. The form shall contain the following notice in boldface type: "ANY PERSON WHO KNOWINGLY FILES A FALSE STATEMENT IS IN VIOLATION OF STATE LAW AND SUBJECT TO FINES AND OTHER PENALTIES."

(5) Any rules adopted by the commission to implement KRS 11A.201 to 11A.246 shall be adopted by administrative regulations promulgated in accordance with KRS Chapter 13A.

(6) The commission shall publish a handbook that explains in clear and concise language the provisions of KRS 11A.201 to 11A.246 and make it available free of charge to executive agency lobbyists, employers, real parties in interest, and any other interested persons.

HB 544, AN ACT relating to law enforcement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 15.310 is amended to read as follows:

As used in KRS 15.315 to 15.510, 15.990, and 15.992, unless the context otherwise requires:

(1) "Basic training course" means the peace officer basic training course provided by the Department of Criminal Justice Training or a course approved and recognized by the Kentucky Law Enforcement Council~~[pursuant to KRS 15.440]~~;

(2) "Certified peace officer" means a peace officer who is certified under KRS 15.380 to 15.402;

(3) "Certification" means the act by the council of issuing certification to a peace officer who successfully completes the training requirements~~[established or approved by the Kentucky Law Enforcement Council]~~ pursuant to ***Section 5 of this Act***~~[KRS 15.440]~~ and the requirements set forth within this chapter;

(4) "Council" means the Kentucky Law Enforcement Council established by KRS 15.315 to 15.510, 15.990, and 15.992;

(5) "Department" means the Department of Criminal Justice Training of the Justice Cabinet;

(6) "Law enforcement officer" means a member of a lawfully organized police unit or police force of county, city or metropolitan government who is responsible for the detection of crime and the enforcement of the general criminal laws of the state, as well as sheriffs, sworn deputy sheriffs, campus security officers, law enforcement support personnel, public airport authority security officers, other public and federal peace officers responsible for law enforcement, and special local peace officers licensed pursuant to KRS 61.360;

(7) "Peace officer" means a person defined in KRS 446.010;

(8) "Secretary" means the secretary of the Justice Cabinet; and

(9) "Validated job task analysis" means the minimum entry level qualifications and training requirements for peace officers in the Commonwealth based upon an actual survey and study of police officer duties and responsibilities conducted by an entity recognized by the Kentucky Law Enforcement Council as being competent to conduct such a study.

Section 2. KRS 15.330 is amended to read as follows:

(1) The council is vested with the following functions and powers:
   (a) To prescribe standards for the approval and continuation of approval of schools at which law enforcement training courses required under KRS 15.310 to 15.510 and KRS 15.990 to 15.992 shall be conducted, including but not limited to minimum standards for facilities, faculty, curriculum, and hours of attendance related thereto;
   (b) To prescribe minimum qualifications for instructors at such schools, except that institutions of higher education shall be exempt from council requirements;
   (c) To prescribe qualifications for attendance and conditions for expulsion from such schools;
   (d) To approve, to issue, and to revoke for cause certificates to schools and instructors as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;
   (e) To approve law enforcement officers and other persons as having met requirements under KRS 15.310 to 15.510 and KRS 15.990 to 15.992;
   (f) To inspect and evaluate schools at any time and to require of schools, instructors, and persons approved or to be approved under the provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992, any information or documents;
   (g) To ***promulgate***~~[recommend]~~ reasonable rules and ***administrative*** regulations ***in accordance with KRS Chapter 13A***~~[to the secretary]~~ to accomplish the purposes of KRS 15.310 to 15.510 and KRS 15.990 to 15.992;
   (h) To monitor the Law Enforcement Foundation Program as prescribed in KRS 15.410 to 15.510;
   (i) To adopt bylaws for the conduct of its business not otherwise provided for; and
   (j) The council shall have the authority to certify police officers as set out in this chapter.

(2) The provisions of KRS 15.310 to 15.510 and KRS 15.990 to 15.992 do not apply to the Department of State Police except for the certification requirement established by this chapter.

Section 3. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:
   (a) State Police officers***, but for the commissioner of the State Police***;
   (b) City, county, and urban-county police officers;
   (c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);
   (d) State or public university safety and security officers appointed pursuant to KRS 164.950;
   (e) School security officers employed by local boards of education who are special law enforcement officers appointed

under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and

(h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.

(2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers; and

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;~~[and]~~

(d) Jailers***; and***

(e) Commissioner of the State Police.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

Section 4. KRS 15.382 is amended to read as follows:

A person certified after December 1, 1998, under KRS 15.380 to 15.402 shall, at the time of becoming certified, meet the following minimum qualifications:

(1) Be a citizen of the United States;

(2) Be at least twenty-one (21) years of age;

(3) Be a high school graduate or have successfully completed a General Education Development (G.E.D.) examination;

(4) Possess a valid license to operate a motor vehicle;

(5) Be fingerprinted for a criminal background check;

(6) Not have been convicted of any felony;

(7) Not be prohibited by federal or state law from possessing a firearm;

(8) Have received and read the Kentucky Law Enforcement Officers Code of Ethics as established by the council;

(9) Have ***not*** received ***a dishonorable***~~[an honorable]~~ discharge***, or general discharge under other than honorable conditions*** if having served in any branch of the armed forces of the United States;

(10) Have passed a medical examination ***as defined*** by the council ***by administrative regulation*** to determine if he can perform peace officer duties as determined by a validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall pass the medical examination, appropriate to the agency's job task analysis, of the employing agency. All agencies shall certify passing medical examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(11) Have passed a drug screening test administered or approved by the council by administrative regulation. A person shall be deemed to have passed a drug screening test if the results of the test are negative for the use of an illegal controlled substance or prescription drug abuse. Any agency that administers its own test that meets or exceeds this standard shall certify passing test results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(12) Have undergone a background investigation established or approved by the council by administrative regulation to

determine suitability for the position of a peace officer. If the employing agency has established its own background investigation that meets or exceeds the standards of the council, as set forth by administrative regulation, the agency shall conduct the background investigation and shall certify background investigation results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(13) Have been interviewed by the employing agency;

(14) Not have had certification as a peace officer permanently revoked in another state;

(15) Have taken a psychological *suitability screening*[~~examination~~] administered or approved by the council by administrative regulation to determine the person's suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take that agency's psychological examination, appropriate to the agency's job task analysis. All agencies shall certify psychological examination results to the council, which shall accept them as complying with KRS 15.315 to 15.510;

(16) Have passed a physical agility test administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties as determined by a council validated job task analysis. However, if the employing agency has its own validated job task analysis, the person shall take the physical agility examination of the employing agency. All agencies shall certify physical agility examination results to the council, which shall accept them as demonstrating compliance with KRS 15.315 to 15.510; and

(17) Have taken a polygraph examination administered or approved by the council by administrative regulation to determine his suitability to perform peace officer duties. Any agency that administers its own polygraph examination as approved by the council shall certify the results that indicate whether a person is suitable for employment as a peace officer to the council, which shall accept them as complying with KRS 15.315 to 15.510.

SECTION 5. A NEW SECTION OF KRS CHAPTER 15 IS CREATED TO READ AS FOLLOWS:

(1) Any peace officers employed or appointed after December 1, 1998, who have not successfully completed basic training at a school certified or recognized by the Kentucky Law Enforcement Council, shall within one (1) year of their appointment or employment, successfully complete at least six hundred forty (640) hours of basic training at a school certified or recognized by the Kentucky Law Enforcement Council.

(2) All peace officers with active certification status shall successfully complete forty (40) hours of annual in-service training that has been certified or recognized by the Kentucky Law Enforcement Council, that is appropriate to the officer's rank and responsibility and the size and location of his department.

(3) In the event of extenuating circumstances beyond the control of an officer that prevent the officer from completing the basic or in-service training within the time specified in subsections (1) and (2) of this section, the secretary of the Justice Cabinet or his designee may grant the officer an extension of time, not to exceed one hundred eighty (180) days in which to complete the training. Any peace officer who fails to successfully complete the basic or in-service training within the specified time period shall lose his law enforcement powers and certification status.

(4) An officer who has lost his law enforcement powers due solely to his failure to meet the training requirements of this section or any other applicable provision of Kentucky law mandating law enforcement training may regain his certification status and law enforcement powers upon successful completion of the training deficiency.

Section 6. KRS 15.386 is amended to read as follows:

The following certification categories shall exist:

(1) Precertification status. The officer is currently employed or appointed by an agency and meets or exceeds all those minimum qualifications set forth in KRS 15.382, but has not successfully completed a basic training course, except those officers covered by KRS 15.400. *Upon the council's verification that the minimum qualifications have been met,* the officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed. If an officer fails to successfully complete a basic training course within one (1) year of employment, his enforcement powers shall automatically terminate, and he shall not exercise peace officer powers in the Commonwealth until he has successfully completed a basic training course.

(2) Certification status. Unless the certification is in revoked status or inactive status, the officer is currently employed or appointed by an agency and has met all training requirements. The officer shall have full peace officer powers as authorized under the statute under which he was appointed or employed.

(3) Inactive status.

(a) The person has been separated *on or after December 1, 1998,* from the agency by which he was employed or appointed and has no peace officer powers; *or*

(b)[~~The person has been employed by another agency in a non-peace officer position; or~~

~~(c)~~] The person is on military active duty for a period exceeding three hundred sixty-five (365) days.

The person may remain on inactive status. A person who is on inactive status and who returns to a peace officer position shall have certification status restored if he has not committed an act for which his certified status may be revoked pursuant to KRS 15.380 to 15.402 and by successfully completing forty (40) hours of in-service training as prescribed by the council.

(4) Revoked or denied status. The officer has no enforcement powers and has been separated from an enforcement agency for any one (1) of the following reasons:

(a) Failure to meet or maintain training requirements;

(b) Willful falsification of information to obtain or maintain certified status;

(c) Certification was the result of an administrative error;

(d) Plea of guilty to, conviction of, or entering of an Alford plea to any felony;

(e) Prohibition by federal or state law from possessing a firearm.

(5) The design of a certificate may be changed periodically. When a new certificate is produced, it shall be distributed free of charge to each currently certified peace officer.

Section 7. KRS 15.388 is amended to read as follows:

(1) Within five (5) working days of employment or appointment, the chief executive officer of the employing agency, or his designee, shall file a report with the council certifying that the newly employed officer is certified or meets or exceeds the precertification qualifications of KRS 15.382.

(2) If the person is certified, the council shall continue certified status.

(3) If the person is on inactive status, the council shall upgrade to certified status unless the certification is revoked as provided by KRS 15.380 to 15.402.

(4) If the person is not certified and not on inactive status, the council shall designate the person as being in precertification status.

(5) A person who is in precertification status shall, upon successful completion of the required basic training, be certified unless he has committed an act that would result in revocation of his certificate in which case he shall be denied certification.

(6) A person who is denied certified status under this section shall have the same right of appeal as a person who has been revoked under KRS 15.380 to 15.402.

(7) If the certified officer has successfully completed the basic training required by ***Section 5 of this Act***[~~KRS 95.955~~] and transfers from a peace officer position from a current employer to a peace officer position for another employer, and both employers have, at least ten (10) working days prior to the effective date of the transfer, notified the council in writing of the transfer, the council shall maintain the officer in certified status.

Section 8. KRS 15.396 is amended to read as follows:

(1) An agency may be required to pay for all training received by a person from the Department of Criminal Justice Training or any other facility approved by the Kentucky Law Enforcement Council if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in KRS 15.380 and if that person fails to achieve certified status as required by KRS 15.380 to 15.402.

(2) The agency shall be denied participation in the Kentucky Law Enforcement Foundation Program Fund if the agency knowingly employs or appoints a person to be an officer of any type as enumerated in KRS 15.380 and if that person:

(a) Fails to meet those minimum qualifications set forth in KRS 15.402;

(b) Fails to achieve certified status as required by KRS 15.380 to 15.402; or

(c) Fails to maintain the minimum training requirements set forth in ***Section 5 of this Act***[~~KRS 95.955~~].

(3) An agency that is in violation of subsection (1) or (2) of this section may be relieved of the associated penalty upon:

(a) Termination of the officer who is the source of the violation; or

(b) Correction of the officer's deficiency.

Section 9. KRS 15.440 is amended to read as follows:

Each local unit of government which meets the following requirements shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund:

(1) Employs one (1) or more police officers;

(2) Pays every police officer at least the minimum federal wage;

(3) Maintains the minimum educational requirement of a high school degree, or its equivalent as determined by the Kentucky Law Enforcement Council, for employment of police officers on or after July 1, 1972, and for all sheriffs appointed or elected on or after July 15, 1998, and all deputy sheriffs, and state or public university police officers employed after July 15, 1998; provided, however, that all police officers employed prior to July 1, 1972, shall be deemed to have met the requirements of this subsection, and that all sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to July 15, 1998 shall be deemed to have met the requirements of this subsection;

(4) Requires all police officers employed on or after July 1, 1972, and all sheriffs appointed or elected on or after July 15, 1998, and deputy sheriffs, and state or public university police officers employed on or after January 1, 1998, to successfully complete a basic training course of at least ***six hundred forty (640)***[~~four hundred (400)~~] hours' duration within one year of the date of employment at a school certified or recognized by the Kentucky Law Enforcement Council. All sheriffs serving in office on July 15, 1998, all deputy sheriffs, and state or public university police, employed prior to January 1, 1998, shall be deemed to have met the requirements of this subsection. The council may, by the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A, set the number of hours for basic training at a number higher than ***six hundred forty (640)***[~~four hundred (400)~~] hours based upon a training curriculum approved by the Kentucky Law Enforcement Council as determined by a validated job task analysis;

(5) Requires all police officers, whether originally employed before or after July 1, 1972, and all sheriffs appointed or elected before, on, or after July 15, 1998, and all deputy sheriffs and state or public police officers employed before, on, or after July 15, 1998, to successfully complete each calendar year an in-service training course, appropriate to the officer's rank and responsibility and the size and location of his department, of at least forty (40) hours' duration at a school certified or recognized by the Kentucky Law Enforcement Council;

(6) Requires compliance with all provisions of law applicable to local police, state or public university police, or sheriffs and their deputies, including transmission of data to the centralized criminal history record information system as required by KRS 17.150;

(7) Requires compliance with all reasonable rules and regulations, appropriate to the size and location of the local police department, state or public university police department, or sheriff's office, issued by the Justice Cabinet to facilitate the administration of the fund and further the purposes of KRS 15.410 to 15.510;

(8) Provided, however, that no local unit of government which meets the criteria of this section shall be eligible to continue sharing in the distribution of funds from the Law Enforcement Foundation Program fund unless the local police department, state or public university police department, or sheriff's office actually begins and continues to comply with the requirements of this section; provided, further, that no local unit shall be eligible to share in the distribution of funds from the Law Enforcement Foundation Program fund until the local police department, state or public university police department, or sheriff's office has substantially complied with subsections (6) and (7) of this section.

Section 10. KRS 15.590 is amended to read as follows:

KRS 15.540 to 15.580 shall be administered by the ***commissioner of the Department of Criminal Justice Training***[~~secretary of justice~~], who shall issue such administrative regulations as necessary regarding training, in-service training, and telecommunications practices.

Section 11. KRS 15A.070 is amended to read as follows:

(1) The Department of Criminal Justice Training shall establish, supervise and coordinate training programs and schools for law enforcement personnel, and any other justice or nonlaw-enforcement-related personnel as prescribed by the secretary.

(2) The Department of Criminal Justice Training shall make a continuing study of law enforcement training standards and upon request may furnish information relating to standards for recruitment, employment, promotion, organization, management, and operation of any law enforcement agency in Kentucky.

(3) The Department of Criminal Justice Training shall conduct continuing research on criminal law and criminal justice subjects related to law enforcement training.

(4) The Department of Criminal Justice Training may by administrative regulation provide for administrative hearings to be conducted in accordance with KRS Chapter 13B.

(5) The commissioner of the Department of Criminal Justice Training may promulgate administrative regulations in accordance with KRS Chapter 13A.

Section 12. KRS 70.263 is amended to read as follows:

(1) Each person serving as a covered deputy sheriff on the effective date of an ordinance that creates a deputy sheriff merit board for the county in which he serves shall have successfully completed, within one (1) year following the effective date of that ordinance, at least ***six hundred forty (640)***[~~four hundred (400)~~] hours of training approved by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

(2) Each person appointed as a covered deputy sheriff in a county that has adopted a deputy sheriff merit board before the date of his appointment shall have successfully completed, within one (1) year following the appointment, at least ***six hundred forty (640)***[~~four hundred (400)~~] hours of training approved by the Kentucky Law Enforcement Council. Training approved by the Kentucky Law Enforcement Council received before the effective date of the ordinance may be used to satisfy all or part of this requirement.

(3) A deputy sheriff whose official duty is to provide security service to the courts, and who is compensated pursuant to KRS 64.092, shall, the provisions of subsections (1) and (2) of this section notwithstanding, satisfy the training requirements for employment if he completes law enforcement training which the Administrative Office of the Courts certifies to the

sheriff as acceptable. If the training was not received prior to the effective date of the ordinance creating the deputy sheriff merit board, in the case of a deputy sheriff serving when the ordinance was passed, or prior to appointment in the case of a deputy sheriff appointed after the effective date of the ordinance, then it shall be received within one (1) year following the effective date of the ordinance or the date of appointment, as the case may be.

(4) A person failing to meet the requirements of this section shall forfeit his position as deputy sheriff immediately upon the expiration of the applicable one (1) year time limit.

Section 13. KRS 95.955 is amended to read as follows:

(1) All police officers and auxiliary police officers originally appointed or employed by a city, urban-county, or charter county government after July 14, 1992, shall, within one (1) year of their appointment or employment, successfully complete at least ***six hundred forty (640)***[~~four hundred (400)~~] hours of basic training administered or approved by the Department of Criminal Justice Training.

(2) All police officers and auxiliary police officers specified in subsection (1) of this section shall, upon completion of the basic training required in the same section, successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.

(3) All police officers and auxiliary police officers appointed or employed before July 14, 1992, shall successfully complete forty (40) hours of annual in-service training administered or approved by the Department of Criminal Justice Training.

(4) In the event of extenuating circumstances beyond the control of the officer such as injury, illness, or personal tragedy which prevents the officer from completing the basic or in-service training within the time specified in subsections (1) to (3) of this section, the officer shall complete the training within one hundred eighty (180) days after return to duty. Any police officer or auxiliary police officer who fails to successfully complete the basic or in-service training within the specified time period shall not be authorized thereafter to carry deadly weapons or make arrests and may be dismissed from employment as a police officer or from membership on the auxiliary police force.

HB 562, AN ACT repealing various safety provisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

228.010 Construction of chapter.
228.020 Application to department to engage in business required.
228.030 Fee to engage in business.
228.040 Inspection before issuance of permit or use of structures and equipment.
228.050 Commissioner may refuse, suspend or revoke permit.
228.060 Renewal of permits.
228.070 Permits to be exhibited -- Not assignable.
228.080 Location, structure and use of buildings.
228.090 Heating.
228.100 Pipes to be protected.
228.110 Lighting and electrical equipment.
228.120 Doors and windows.
228.130 Cleaning floors.
228.140 Ventilation.
228.150 Structural requirements of drying rooms.
228.160 Fire extinguishing apparatus.
228.170 Heating and spark-emitting devices prohibited, where.
228.180 Sewer connections -- Floor construction.
228.190 Requirements for dry cleaning, washing, extracting and redistilling equipment.
228.200 Liquids returned to storage tanks at close of operation -- Tanks to be marked.
228.210 Volatile substances, how carried.
228.220 Storage tanks for volatile substances.
228.230 Instilling or redistilling to be in fireproof room.
228.240 Storage tanks to be buried underground.
228.250 Storage tank vent pipes.

228.260 Storage tank filling pipe.
227.270 Jurisdiction of state fire marshal -- Rights of entry for inspections and investigations.
228.280 Chapter does not apply to structures in use in 1922 unless subsequently altered.
228.290 Business considered abandoned, when.
228.300 Enforcement of chapter.
228.990 Penalties.

The Committee Substitute No. 1 to **HB 562** is as follows:

HB 562, AN ACT repealing various safety provisions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

228.010 Construction of chapter.
228.020 Application to department to engage in business required.
228.030 Fee to engage in business.
228.040 Inspection before issuance of permit or use of structures and equipment.
228.050 Commissioner may refuse, suspend or revoke permit.
228.060 Renewal of permits.
228.070 Permits to be exhibited -- Not assignable.
228.080 Location, structure and use of buildings.
228.090 Heating.
228.100 Pipes to be protected.
228.110 Lighting and electrical equipment.
228.120 Doors and windows.
228.130 Cleaning floors.
228.140 Ventilation.
228.150 Structural requirements of drying rooms.
228.160 Fire extinguishing apparatus.
228.170 Heating and spark-emitting devices prohibited, where.
228.180 Sewer connections -- Floor construction.
228.190 Requirements for dry cleaning, washing, extracting and redistilling equipment.
228.200 Liquids returned to storage tanks at close of operation -- Tanks to be marked.
228.210 Volatile substances, how carried.
228.220 Storage tanks for volatile substances.
228.230 Instilling or redistilling to be in fireproof room.
228.240 Storage tanks to be buried underground.
228.250 Storage tank vent pipes.
228.260 Storage tank filling pipe.
228.270 Pipes to connect tanks at top -- Valve to be kept closed.
228.280 Chapter does not apply to structures in use in 1922 unless subsequently altered.
228.290 Business considered abandoned, when.
228.300 Enforcement of chapter.
228.990 Penalties.

HB 571, AN ACT adopting the Uniform Electronic Transactions Act, and making changes incidental thereto.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 20 of this Act may be cited as the Uniform Electronic Transactions Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 20 of this Act, unless the context requires otherwise:

(1) "Agreement" means the bargain of the parties in fact, as found in their language or inferred from other circumstances and from rules, regulations, and procedures given the effect of agreements under laws otherwise applicable to a particular transaction;

(2) "Automated transaction" means a transaction conducted or performed, in whole or in part, by electronic means or electronic records, in which the acts of records of one or both parties are not reviewed by an individual in the ordinary course in forming a contract, performing under an existing contract, or fulfilling an obligation required by the transaction;

(3) "Computer program" means a set of statements or instructions to be used directly or indirectly in an information processing system in order to bring about a certain result;

(4) "Contract" means the total legal obligation resulting from the parties' agreement as affected by Sections 1 to 20 of this Act and other applicable law;

(5) "Electronic" means relating to technology having electrical, digital, magnetic, wireless, optical, electromagnetic, or similar capabilities;

(6) "Electronic agent" means a computer program or an electronic or other automated means used independently to initiate an action or respond to electronic records or performances in whole or in part, without review or action by an individual;

(7) "Electronic record" means a record created, generated, sent, communicated, received, or stored by electronic means;

(8) "Electronic signature" means an electronic sound, symbol, or process attached to or logically associated with a record and executed or adopted by a person with the intent to sign the record;

(9) "Governmental agency" means an executive, legislative, or judicial agency, department, board, commission, authority, institution, or instrumentality of the federal government or of a state or of a county, municipality, or other political subdivision of a state;

(10) "Information" means data, text, images, sounds, codes, computer programs, software, databases, or the like;

(11) "Information processing system" means an electronic system for creating, generating, sending, receiving, storing, displaying, or processing information;

(12) "Person" means an individual, corporation, business trust, estate, trust, partnership, limited liability company, association, joint venture, governmental agency, public corporation, or any other legal or commercial entity;

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form;

(14) "Security procedure" means a procedure employed for the purpose of verifying that an electronic signature, record, or performance is that of a specific person or for detecting changes or errors in the information in an electronic record. The term includes a procedure that requires the use of algorithms or other codes, identifying words or numbers, encryption, or callback or other acknowledgment procedures;

(15) "State" means a state of the United States, the District of Columbia, Puerto Rico, the United States Virgin Islands, or any territory or insular possession subject to the jurisdiction of the United States. The term includes an Indian tribe or band, or Alaskan native village, which is recognized by federal law or formally acknowledged by a state; and

(16) "Transaction" means an action or set of actions occurring between two (2) or more persons relating to the conduct of business, commercial, or governmental affairs.

SECTION 3. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (2) of this section, Sections 1 to 20 of this Act applies to electronic records and electronic signatures relating to a transaction.

(2) Sections 1 to 20 of this Act does not apply to a transaction to the extent it is governed by:

(a) A law governing the creation and execution of wills, codicils, or testamentary trusts;

(b) KRS Chapter 355 other than KRS 355.1-107 and 355.1-206, and Articles 2 and 2A of KRS Chapter 355;

(c) A law governing the conveyance of any interest in real property; and

(d) A law governing the creation or transfer of any negotiable instrument or any instrument establishing title or an interest in title.

(3) Sections 1 to 20 of this Act applies to an electronic record or electronic signature otherwise excluded from the application of Sections 1 to 20 of this Act under subsection (2) of this section to the extent it is governed by a law other than those specified in subsection (2) of this section.

(4) A transaction subject to Sections 1 to 20 of this Act is also subject to other applicable substantive law.

SECTION 4. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 20 of this Act applies to any electronic record or electronic signature created, generated, sent, communicated, received, or stored on or after the effective date of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) Sections 1 to 20 of this Act does not require a record or signature to be created, generated, sent, communicated, received, stored, or otherwise processed or used by electronic means or in electronic form.

(2) Sections 1 to 20 of this Act applies only to transactions between parties each of which has agreed to conduct transactions by electronic means. Whether the parties agree to conduct a transaction by electronic means is determined from the context and surrounding circumstances, including the parties' conduct.

(3) A party that agrees to conduct a transaction by electronic means may refuse to conduct other transactions by electronic means. The right granted by this subsection may not be waived by agreement.

(4) Except as otherwise provided in Sections 1 to 20 of this Act, the effect of any of its provisions may be varied by agreement. The presence in certain provisions of Sections 1 to 20 of this Act of the words "unless otherwise agreed," or words of similar import, does not imply that the effect of other provisions may not be varied by agreement.

(5) Whether an electronic record or electronic signature has legal consequences is determined by Sections 1 to 20 of this Act and other applicable law.

SECTION 6. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 20 of this Act must be construed and applied:

(1) To facilitate electronic transactions consistent with other applicable law;

(2) To be consistent with reasonable practices concerning electronic transactions and with the continued expansion of those practices; and

(3) To effectuate its general purpose to make uniform the law with respect to the subject of Sections 1 to 20 of this Act among states enacting it.

SECTION 7. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) A record or signature may not be denied legal effect or enforceability solely because it is in electronic form.

(2) A contract may not be denied legal effect or enforceability solely because an electronic record was used in its formation.

(3) If a law requires a record to be in writing, an electronic record satisfies the law.

(4) If a law requires a signature, an electronic signature satisfies the law.

SECTION 8. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) If parties have agreed to conduct a transaction by electronic means and a law requires a person to provide, send, or deliver information in writing to another person, the requirement is satisfied if the information is provided, sent, or delivered, as the case may be, in an electronic record capable of retention by the recipient at the time of receipt. An electronic record is not capable of retention by the recipient if the sender or its information processing system inhibits the ability of the recipient to print or store the electronic record.

(2) If a law other than Sections 1 to 20 of this Act requires a record to be posted or displayed in a certain manner, to be sent, communicated, or transmitted by a specified method, or to contain information that is formatted in a certain manner, the following rules apply:

  (a) The record must be posted or displayed in the manner specified in the other law.

  (b) Except as otherwise provided in subsection (4)(b) of this section, the record must be sent, communicated, or transmitted by the method specified in the other law.

  (c) The record must contain the information formatted in the manner specified in the other law.

(3) If a sender inhibits the ability of a recipient to store or print an electronic record, the electronic record is not enforceable against the recipient.

(4) The requirements of this section may not be varied by agreement, but:

  (a) To the extent a law other than Sections 1 to 20 of this Act requires information to be provided, sent, or delivered in writing but permits that requirement to be varied by agreement, the requirement under subsection (1) of this section that the information be in the form of an electronic record capable of retention may also be varied by agreement; and

  (b) A requirement under a law other than Sections 1 to 20 of this Act to send, communicate, or transmit a record by United States mail may be varied by agreement to the extent permitted by the other law.

SECTION 9. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) An electronic record or electronic signature is attributable to a person if it was the act of the person. The act of the

person may be shown in any manner, including a showing of the efficacy of any security procedure applied to determine the person to which the electronic record or electronic signature was attributable.

(2) The effect of an electronic record or electronic signature attributed to a person under subsection (1) of this section is determined from the context and surrounding circumstances at the time of its creation, execution, or adoption, including the parties' agreement, if any, and otherwise as provided by law.

SECTION 10. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

If a change or error in an electronic record occurs in a transmission between parties to a transaction, the following rules apply:

(1) If the parties have agreed to use a security procedure to detect changes or errors and one party has conformed to the procedure, but the other party has not, and the nonconforming party would have detected the change or error had that party also conformed, the conforming party may avoid the effect of the changed or erroneous electronic record.

(2) In an automated transaction involving an individual, the individual may avoid the effect of an electronic record that resulted from an error made by the individual in dealing with the electronic agent of another person if the electronic agent did not provide an opportunity for the prevention or correction of the error and, at the time the individual learns of the error, the individual:

(a) Promptly notifies the other person of the error and that the individual did not intend to be bound by the electronic record received by the other person;

(b) Takes reasonable steps, including steps that conform to the other person's reasonable instructions, to return to the other person or, if instructed by the other person, to destroy the consideration received, if any, as a result of the erroneous electronic record; and

(c) Has not used or received any benefit or value from the consideration, if any, received from the other person.

(3) If neither subsection (1) of this section nor subsection (2) of this section applies, the change or error has the effect provided by other law, including the law of mistake, and the parties' contract, if any.

(4) Subsections (2) and (3) of this section may not be varied by agreement.

SECTION 11. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

If a law requires a signature or record to be notarized, acknowledged, verified, or made under oath, the requirement is satisfied if the electronic signature of the person authorized to perform those acts, together with all other information required to be included by other applicable law, is attached to or logically associated with the signature or record.

SECTION 12. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) If a law requires that a record be retained, the requirement is satisfied by retaining an electronic record of the information in the record which:

(a) Accurately reflects the information set forth in the record after it was first generated in its final form as an electronic record or otherwise; and

(b) Remains accessible for later reference.

(2) A requirement to retain a record in accordance with subsection (1) of this section does not apply to any information the sole purpose of which is to enable the record to be sent, communicated, or received.

(3) A person may satisfy subsection (1) of this section by using the services of another person if the requirements of that subsection are satisfied.

(4) If a law requires a record to be presented or retained in its original form, or provides consequences if the record is not presented or retained in its original form, that law is satisfied by an electronic record retained in accordance with subsection (1) of this subsection.

(5) If a law requires retention of a check, that requirement is satisfied by retention of an electronic record of the information on the front and back of the check in accordance with subsection (1) of this subsection.

(6) A record retained as an electronic record in accordance with subsection (1) of this section satisfies a law requiring a person to retain a record for evidentiary, audit, or like purposes, unless a law enacted after the effective date of Sections 1 to 20 of this Act specifically prohibits the use of an electronic record for the specified purpose.

(7) This section does not preclude a governmental agency of this state from specifying additional requirements for the retention of a record subject to the agency's jurisdiction.

SECTION 13. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

In a proceeding, evidence of a record or signature may not be excluded solely because it is in electronic form.

SECTION 14. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

In an automated transaction, the following rules apply:

(1) A contract may be formed by the interaction of electronic agents of the parties, even if no individual was aware of or

reviewed the electronic agents' actions or the resulting terms and agreements.

(2) A contract may be formed by the interaction of an electronic agency and an individual, acting on the individual's own behalf or for another person, including by an interaction in which the individual performs actions that the individual is free to refuse to perform and which the individual knows or has reason to know will cause the electronic agent to complete the transaction or performance.

(3) The terms of the contract are determined by the substantive law applicable to it.

SECTION 15. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) Unless otherwise agreed between the sender and the recipient, an electronic record is sent when it:

(a) Is addressed properly or otherwise directed properly to an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record;

(b) Is in a form capable of being processed by that system; and

(c) Enters an information processing system outside the control of the sender or of a person that sent the electronic record on behalf of the sender or enters a region of the information processing system designated or used by the recipient which is under the control of the recipient.

(2) Unless otherwise agreed between a sender and the recipient, an electronic record is received when:

(a) It enters an information processing system that the recipient has designated or uses for the purpose of receiving electronic records or information of the type sent and from which the recipient is able to retrieve the electronic record; and

(b) It is in a form capable of being processed by that system.

(3) Subsection (2) of this section applies even if the place the information processing system is located is different from the place the electronic record is deemed to be received under subsection (4) of this section.

(4) Unless otherwise expressly provided in the electronic record or agreed between the sender and the recipient, an electronic record is deemed to be sent from the sender's place of business and to be received at the recipient's place of business. For purposes of this subsection, the following rules apply:

(a) If the sender or recipient has more than one (1) place of business, the place of business of that person is the place having the closest relationship to the underlying transaction.

(b) If the sender or the recipient does not have a place of business, the place of business is the sender's or recipient's residence, as the case may be.

(5) An electronic record is received under subsection (2) of this section even if no individual is aware of its receipt.

(6) Receipt of an electronic acknowledgment from an information processing system described in subsection (2) of this section establishes that a record was received but, by itself, does not establish that the content sent corresponds to the content received.

(7) If a person is aware than an electronic record purportedly sent under subsection (1) of this section, or purportedly received under subsection (2) of this section, was not actually sent or received, the legal effect of the sending or receipt is determined by other applicable law. Except to the extent permitted by the other law, the requirements of this subsection may not be varied by agreement.

SECTION 16. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) In this section, "transferable record" means an electronic record that:

(a) Would be a note under Article 3 of KRS Chapter 355 or a document under Article 7 of KRS Chapter 355 if the electronic record were in writing; and

(b) The issuer of the electronic record expressly has agreed is a transferable record.

(2) A person has control of a transferable record if a system employed for evidencing the transfer of interests in the transferable record reliably establishes that person as the person to which the transferable record was issued or transferred.

(3) A system satisfies subsection (2) of this section, and a person is deemed to have control of a transferable record, if the transferable record is created, stored, and assigned in such a manner that:

(a) A single authoritative copy of the transferable record exists which is unique, identifiable, and, except as otherwise provided in paragraphs (d), (e), and (f) of this subsection, unalterable;

(b) The authoritative copy identifies the person asserting control as:

1. The person to which the transferable record was issued; or

2. If the authoritative copy indicates that the transferable record has been transferred, the person to which the transferable record was most recently transferred;

(c) The authoritative copy is communicated to and maintained by the person asserting control or its designated custodian;

(d) Copies of revisions that add or change an identified assignee of the authoritative copy can be made only with the consent of the person asserting control;

(e) Each copy of the authoritative copy and any copy of a copy is readily identifiable as a copy that is not the authoritative copy; and

(f) Any revision of the authoritative copy is readily identifiable as authorized or unauthorized.

(4) Except as otherwise agreed, a person having control of a transferable record is the holder, as defined in KRS 355.1-201(20), of the transferable record and has the same rights and defenses as a holder of an equivalent record or writing under KRS Chapter 355, including, if the applicable statutory requirements under KRS 355.3-302(1), 355.7-501, or 355.9-308 are satisfied, the rights and defenses of a holder in due course, a holder to which a negotiable document of title has been duly negotiated, or a purchaser, respectively. Delivery, possession, and indorsement are not required to obtain or exercise any of the rights under this subsection.

(5) Except as otherwise agreed, an obligor under a transferable record has the same rights and defenses as an equivalent obligor under equivalent records or writing under KRS Chapter 355.

(6) If requested by a person against which enforcement is sought, the person seeking to enforce the transferable record shall provide reasonable proof that the person is in control of the transferable record. Proof may include access to the authoritative copy of the transferable record and related business records sufficient to review the terms of the transferable record and to establish the identity of the person having control of the transferable record.

SECTION 17. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

Each governmental agency of this Commonwealth shall determine whether, and the extent to which it will create electronic records. The Kentucky Department of Libraries and Archives shall determine whether, and the extent to which, the Commonwealth will retain electronic records and convert written records to electronic records.

SECTION 18. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

(1) Except as otherwise provided in subsection (6) of section 12 of this Act, each governmental agency of this state, in compliance with standards established by the Governor's Office for Technology, shall determine whether, and the extent to which, it will send and accept electronic records and electronic signatures to and from other persons and otherwise create, generate, communicate, store, process, use, and rely upon electronic records and electronic signatures.

(2) To the extent that a governmental agency uses electronic records and electronic signatures under subsection (1) of this section:

(a) The Governor's Office for Technology, giving due consideration to security, may specify the manner and format in which the electronic records must be created, generated, sent, communicated, received, and stored and the systems established for those purposes;

(b) If electronic records must be signed by electronic means, each governmental agency, giving due consideration to security, may specify the type of electronic signature required, the manner and format in which the electronic signature must be affixed to the electronic record, and the identity of, or criteria that must be met by, any third party used by a person filing a document to facilitate the process;

(c) The Governor's Office for Technology and the Department for Libraries and Archives, giving due consideration to security, may specify control processes and procedures as appropriate to ensure adequate preservation, disposition, integrity, security, confidentiality, and auditability of electronic records; and

(d) Each governmental agency, giving due consideration to security, may specify any other required attributes for electronic records which are specified for corresponding nonelectronic records or reasonably necessary under the circumstances.

(3) Except as otherwise provided in subsection (6) of Section 12 of this Act, Sections 1 to 20 of this Act does not require a governmental agency of this state to use or permit the use of electronic records or electronic signatures.

SECTION 19. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

The Governor's Office for Technology which adopts standards pursuant to subsection (2)(a) of Section 18 of this Act may encourage and promote consistency and interoperability with similar requirements adopted by other governmental agencies of this and other states and the federal government and nongovernmental persons interacting with governmental agencies of this state. If appropriate, those standards may specify differing levels of standards from which governmental agencies of this state may choose in implementing the most appropriate standard for a particular application.

SECTION 20. A NEW SECTION OF KRS CHAPTER 369 IS CREATED TO READ AS FOLLOWS:

If any provision of Sections 1 to 20 of this Act or its application to any person or circumstance is held invalid, the invalidity does not affect other provisions or applications of Sections 1 to 20 of this Act which can be given effect without the invalid

provision or application, and to this end the provisions of Sections 1 to 20 of this Act are severable.

Section 21. The following KRS sections are repealed:

369.010 Legislative intent of KRS 369.010 to 369.030.

369.020 Definitions for KRS 369.010 to 369.030.

369.030 Use of electronic record or electronic signature -- Construction and scope of KRS 369.010 to 369.030.

Section 22. Sections 1 to 20 of this Act applies to contracts created or renegotiated on and after the effective date of this Act. To the extent that Sections 1 to 20 of this Act may be inconsistent, and notwithstanding the repeal of KRS 369.010 to 369.030 contained in Section 21 of this Act, contracts based on those statutes shall continue in force under their terms until they expire or are renegotiated, and the application of those statutes to such contracts shall continue as if the specified statutes had not been repealed.

Section 23. If the General Assembly enacts the revised version of Article 9 of the Uniform Commercial Code during this 2000 Regular Session and that legislation becomes law, the reference to KRS 355.9-308 in subsection (4) of Section 16 of this Act shall be changed to 355.9-330, as of the effective date of revised Article 9, to reflect the location of the relevant text in the revised Article 9.

Section 24. In the event that the Governor's Executive Order 99-1359, dated October 6, 1999, creating the Governor's Office for Technology, is not confirmed by the 2000 General Assembly, references in Sections 18 and 19 of this Act to the Governor's Office for Technology shall be deleted, and in codification the Chief Information Officer shall be inserted in lieu thereof.

Section 25. This Act shall take effect August 1, 2000.

HB 603, AN ACT relating to the energy assistance trust fund.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 42.560 is amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) The fund shall be managed by the state Office of Financial Management and Economic Analysis and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns. The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time ***extending up to the effective date of this Act***~~[not exceeding ten (10) years from February 19, 1988]~~. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 2. KRS 42.560, as amended by Section 1 of this Act, is further amended to read as follows:

(1) There is established in the Treasury of the Commonwealth a trust fund to be known as the "Energy Assistance Trust Fund" referred to in KRS 42.560 to 42.572 as the "trust fund."

(2) The trust fund shall consist of any oil overcharge refunds which become available to the state as a result of litigation for alleged overcharges for crude oil or refined petroleum products sold during the period of time in which federal price controls on such products were in effect, any moneys as may be appropriated by the general fund, and any investment interest earned on the fund.

(3) ~~[The fund shall be managed by the state Office of Financial Management and Economic Analysis and all moneys in excess of the amount to be disbursed in a given fiscal year shall be invested to maximize returns.]~~The principal and any interest earnings of the trust fund shall at no time lapse to the general fund.

(4) The trust fund and all accumulated interest shall be disbursed over a period of time extending up to ***July 1, 2005***~~[the effective date of this Act. Interest accumulated during the 1987-88 fiscal year shall immediately be available for disbursement. Fifty thousand dollars ($50,000) of the interest shall be allocated to the Legislative Research Commission for consultant costs for a study of energy conservation and weatherization programs as directed by the 1988 General~~

~~Assembly. The remainder of the accumulated interest shall be made available to the Cabinet for Families and Children with fifty percent (50%) of the interest allocated to weatherization services to low-income households and fifty percent (50%) of the interest allocated to low-income energy assistance services~~]. The funds to be available for expenditure in any fiscal year shall be appropriated by the General Assembly from the trust fund as provided in KRS 48.300.

Section 3. KRS 42.566 is amended to read as follows:

(1) The funds appropriated by the General Assembly shall be expended in a manner consistent with the judgments and settlements, as amended, which produced the oil overcharge refunds, as follows:

(a) The sum of ***one million***[~~five hundred thousand~~] dollars ***($1,000,000)***[~~($500,000)~~] or ***fifty***[~~eight~~] percent ***(50%)***[~~(8%)~~] of the amount appropriated each fiscal year, whichever is ***less***[~~greater~~], shall be distributed annually to the Natural Resources and Environmental Protection Cabinet for expenditure in the Institutional Conservation Program established pursuant to Part G of Title III of the Energy Policy and Conservation Act, 42 U.S.C. secs. 6371 et seq. The source of these funds shall be deemed to be the trust funds produced by the Stripper Well litigation, In Re Department of Energy Stripper Well Exemption Litigation, D.C. Kan., M.D.L. No. 378, and the Diamond Shamrock litigation, Diamond Shamrock Refining Co. v. Standard Oil of Indiana, D.C. Ind., Civil Action No. C-84-1432, and interest accumulated thereon.

(b) The balance of the trust funds appropriated for expenditure in any fiscal year shall be distributed to the Cabinet for Families and Children***. One hundred***[~~and allocated as follows:~~

~~1. Forty~~] percent ***(100%)***[~~(40%)~~] of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for weatherization of low-income households established pursuant to Part A of the Energy Conservation and Existing Buildings Act of 1976, 42 U.S.C. secs. 6861 et seq.[~~; and~~

~~2. Sixty percent (60%) of the trust funds received by the cabinet in any fiscal year shall be allocated to the cabinet's program for energy crisis or prevention services for low-income households established pursuant to the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C. secs. 8621 et seq.~~]

Section 4. Section 1 of this Act is retroactive to February 19, 1998.

HB 605, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of ***nine (9)***[~~eight (8)~~] members, appointed by the Governor as follows: ***one (1) member shall be an operational officer responsible for a PSAP with enhanced 911 capabilities;*** three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or their designee containing a public safety answering point; one (1)[~~ nonvoting~~] member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator, appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629, the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the Finance and Administration Cabinet for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 2. KRS 65.7631 is amended to read as follows:

The moneys in the CMRS fund shall be apportioned among the approved uses of the fund as specified in this section. The board shall make individual disbursements from the fund upon such terms and conditions necessary in view of the amount of revenues on deposit at the time each request for disbursement is reviewed and approved.

(1) Not more than ***five***[~~two and one-half~~] percent ***(5%)***[~~(2.5%)~~] of the total monthly revenues deposited into the CMRS fund shall be disbursed or reserved for disbursement by the board to pay the administrative costs and expenses incurred in the operation of the board, including the compensation of the administrator and expenses incurred pursuant to KRS 65.7629(10), (11), and (13).

(2) From the balance of the total monthly revenues deposited into the CMRS fund after the amounts disbursed or reserved for disbursement under subsection (1) of this section have been subtracted, fifty percent (50%) shall be distributed to PSAPs eligible to receive disbursement from the CMRS fund under subsection (4) of this section who actually request disbursement, as follows:

(a) Twenty-five percent (25%) shall be distributed according to the "PSAP pro rata formula," whereby each receives a percentage determined by dividing one (1) by the total number of PSAPs eligible to request and actually requesting disbursements under subsection (4) of this section; and

(b) Twenty-five percent (25%) shall be distributed according to the "PSAP volume formula," whereby each receives a percentage determined by dividing the number of wireless E911 calls received by that PSAP in the previous quarter by the total number of wireless E911 calls received in the previous quarter by all PSAPs located within the boundaries of the Commonwealth that are eligible to receive and actually requesting disbursements under subsection (4) of this section.

All amounts distributed to PSAPs under this subsection shall be used by the PSAPs solely for the purposes of answering, routing, and properly disposing of CMRS 911 calls, ***training PSAP staff, public education concerning appropriate use of 911,*** and of complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission pursuant to the FCC order, including the payment of costs and expenses incurred in designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service.

(3) The balance of the total monthly revenues deposited into the CMRS fund which remains after the disbursements or disbursement reservations prescribed by subsections (1) and (2) of this section have been made shall be distributed to CMRS providers licensed to do business in the Commonwealth solely for the purpose of reimbursing the actual expenses incurred by the CMRS providers in complying with the wireless E911 service requirements established by the FCC order and any rules and regulations which are or may be adopted by the Federal Communications Commission in carrying out the FCC order, including, but not limited to, costs and expenses incurred for designing, upgrading, purchasing, leasing, programming, testing, installing, or maintaining all necessary data, hardware, and software required in order to provide wireless E911 service. Sworn invoices shall be presented to the board in connection with any request for reimbursement under this subsection, and approval by a majority vote of the board shall be required prior to any disbursement, which approval shall not be withheld unreasonably. In no event shall any invoice for reimbursement be approved for payment of costs that are not related to compliance with requirements established by the FCC order, or for payment of any costs incurred by a CMRS provider exceeding one hundred twenty-five percent (125%) of the CMRS emergency service charges remitted by that CMRS provider, unless prior approval for the expenditures was given by the CMRS Board. If the total amount of invoices submitted to the CMRS Board and approved for payment exceeds the amount in the CMRS fund in any month, CMRS providers that have invoices approved for payment shall receive a pro rata share of the fund available that month, based on approved invoices, and the balance of the payments shall be carried over to the following months until all of the approved payments are made.

(4) Notwithstanding any other provision of the law, no PSAP shall be eligible to request or receive a disbursement from the CMRS fund under subsection (2) of this section unless and until the PSAP:

(a) Is expressly certified as a PSAP by the CMRS Board, upon written application to the CMRS Board;

(b) Demonstrates that the PSAP is providing 911 services to a local government that has adopted an ordinance either imposing a special tax, license, or fee as authorized by KRS 65.760(3) or has established other means of funding wireline 911 emergency telephone service;

(c) Demonstrates that the administrator of the PSAP sent a request for wireless, E911 service to a CMRS provider, and that the infrastructure of the local exchange carrier will support wireless E911 service;

(d) Provides an accounting of the number of wireless E911 calls received by the PSAP during the prior calendar year; and

(e) Either demonstrates that the PSAP has made the investment which is necessary to allow the PSAP to receive and utilize the data elements associated with wireless E911 service, or provides to the board a binding resolution, duly adopted by the governing authority of the PSAP, committing the PSAP to expend funds to lease or purchase emergency telephone equipment, including necessary computer hardware and software, for database provisioning, for addressing, and for the other nonrecurring costs of establishing wireless E911 service.

HB 692, AN ACT relating to the Board of Claims.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 44 IS CREATED TO READ AS FOLLOWS:

No claim shall be brought before the board unless the value of the total amount of damages claimed therein is one hundred dollars ($100) or greater.

Section 2. KRS 44.086 is amended to read as follows:

(1) The board may require affected state agencies to investigate claims and the incidents on which they are based and to furnish to the board and the claimant in writing the facts learned by investigation. Such response shall be sufficiently specific to support a decision by the board to pay or deny the claim. If the agency believes the state should refute a claim, the agency shall cite the facts about the incident that support its belief.

(2) If the claim is under one thousand dollars ($1,000) it will be investigated by the board in-house and if the board believes it needs additional facts before deciding the claim, the parties may provide the needed information by letter or as directed by the board.

(3) The board shall hold hearings on contested claims whose value is ***one thousand***~~[five hundred]~~ dollars ***($1,000)***~~[($500)]~~ or greater but may decide claims under ***one thousand***~~[five hundred]~~ dollars ***($1,000)***~~[($500)]~~ without a hearing.

(4) At its hearings, the board, or any of its members, or any of its hearing officers shall hear the parties at issue and their representatives and witnesses.

(5) The award or order shall be made by the board or by a member assigned by the chairman within thirty (30) days after final submission, except in cases involving large or complicated records or unusual questions of law, and shall be made within ninety (90) days after final submission in any event. The order or award, together with a statement of the findings of fact, rulings of law and other matters pertinent to the question at issue shall be filed with the record of the claim and a copy of the order or award shall immediately be sent to the parties in dispute.

(6) If an application for review is made to the board within fourteen (14) days from the date of the order or award, the full board, if the first decision was not made by the full board, shall, as soon as practicable, review the evidence, or, if deemed advisable, hear the parties at issue, their representatives and witnesses, and shall make an order or award and file it as specified in subsection (5) above.

Section 3. KRS 44.140 is amended to read as follows:

(1) Appeals may be taken by a state agency from all awards of the board where the amount in controversy, exclusive of interest and costs, is more than ***one thousand***~~[five hundred]~~ dollars ***($1,000)***~~[($500)]~~. Appeals shall be taken to the Circuit Court of the county wherein the hearing was conducted, provided, however, that an appeal involving a nonresident claimant may be taken by a state agency to the Franklin Circuit Court with the approval of the board. No state agency can appeal any decision of the board without securing the prior approval of the Attorney General. Appeals shall be taken within forty-five (45) days from the rendition of the award, and the method of appeals shall follow as nearly as may be the rules of civil procedure, except the Commonwealth shall not be required to execute bond.

(2) Any claimant whose claim is ***one thousand***~~[five hundred]~~ dollars ***($1,000)***~~[($500)]~~ or greater may within forty-five (45) days after receipt of the copy of the report containing the final decision of the board, file a proceeding in the Circuit Court of the county wherein the hearing was conducted to review the decision of the board. A copy of the filing and complaint shall be served on the Attorney General in the manner provided by the rules of civil procedure.

(3) The board, the state agency and the claimant shall be necessary parties to such appeals. It shall not be necessary for the board to file responsive pleadings unless it so desires.

(4) The executive director of the board shall within thirty (30) days after service of the summons file the entire original record properly bound, with the clerk of the Circuit Court, after certifying that such record is the board's entire original record and such record shall be considered by the Circuit Court in its review. If either party requests a transcript of the evidence in writing, the requesting party shall bear the cost of the original copy of the transcript and it shall be furnished within ninety (90) days from the date of the written request.

(5) On appeal no new evidence may be introduced, except as to fraud or misconduct of some person engaged in the hearing before the board. The court sitting without a jury shall hear the cause upon the record before it, and dispose of the appeal in a summary manner, being limited to determining: Whether or not the board acted without or in excess of its powers; the award was procured by fraud; the award is not in conformity to the provisions of KRS 44.070 to 44.160; and whether the findings of fact support the award. The court shall enter its findings on the order book as a judgment of the court, and such judgment shall have the same effect and be enforceable as any other judgment of the court in civil causes.

HB 694, AN ACT relating to the Crime Victims Compensation Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

A domestic violence or child abuse victim of criminally injurious conduct may receive a one (1) time payment of up to five hundred dollars ($500) for payment of relocation expenses, provided satisfactory documentation of the expenses related to the relocation is provided to the Board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

To be eligible for compensation under this chapter, a victim or claimant shall have incurred and claim at least one hundred dollars ($100) in either medical expenses or lost wages, or a combination thereof, attributable to the criminally injurious conduct for which compensation is sought.

Section 3. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board;

(2) "Child" means any person less than eighteen (18) years of age;

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, psychological injury, or death, and is punishable by fine, imprisonment, or death. Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute a criminally injurious conduct unless the injury or death was intentionally inflicted***,***~~[or]~~ involved a violation of KRS 189A.010***, or injury or death to a pedestrian resulted from the conduct***~~[driving under the influence]~~;

(5) "Family," when used with reference to a person, shall mean:

(a) Any person related to such person within the third degree of consanguinity;

(b) Any person maintaining a sexual relationship with such person; or

(c) Any person residing in the same household with such person; and

(6) (a) "Victim" means a~~[needy]~~ person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

1. Criminally injurious conduct;

2. A good faith effort to prevent criminally injurious conduct; or

3. A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:

1. The crime would be compensable had it occurred inside this state; and

2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 346.050.

(c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

Section 4. KRS 346.050 is amended to read as follows:

(1) Except as provided in subsections (2)***, (3), and (4)***~~[and (3)]~~ of this section, the following persons shall be eligible for awards pursuant to this chapter:

(a) A victim of criminally injurious conduct;

(b) A surviving spouse, parent, or child of a victim of criminally injurious conduct who died as a direct result of such conduct;

(c) Any other person dependent for his principal support upon a victim of criminally injurious conduct who died as a direct result of such crime; and

(d) Any person who is legally responsible for the medical expenses or funeral expenses of a victim.

(2) No victim or dependent shall be denied compensation solely because he is a relative of the offender or was living with the offender as a family or household member at the time of the injury or death. However, the board may award compensation to a victim or dependent who is a relative, family or household member of the offender only if the board can reasonably determine the offender will not receive significant economic benefit or unjust enrichment from the compensation.

(3) No compensation of any kind shall be awarded when injury occurred while the victim was confined in any state, county, urban-county, or city jail, prison, or other correctional facility, or any state institution maintained and operated by the

Cabinet for Health Services.

(4) No compensation of any kind shall be awarded to a claimant who has been convicted of a felony involving violence or controlled substances within the ten (10) years preceding the date of the crime for which compensation is sought.

Section 5. KRS 346.080 is amended to read as follows:

(1) A claim, when accepted for filing, shall be assigned by the clerk of the board to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.

(2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.

(3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.

(4) For purposes of this chapter, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under this chapter in which that condition is an element.

(5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

(6) Upon completion of the investigator's report, the claim shall be assigned to a board member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the board member is unable to decide the claim upon the basis of the papers and the report, he shall order a hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

(7) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the board member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to KRS 346.130 or deny the claim. The board shall review the recommended order and any exceptions filed to it, and shall by majority vote issue a final order.

(8) ***If the Attorney General or claimant first petitions the board to reconsider*** a final order of the board ***issued in accordance with subsection (7) of this section, the board's final determination on reconsideration, and only that decision,*** may be appealed by the Attorney General or a claimant by filing a petition for judicial review in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 6. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

- (a) Criminally injurious conduct occurred;
- (b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and
- (c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. ***The board may include reimbursement for mileage at the rate provided for state employees incurred by a victim who is required to travel more than fifty (50) miles from the victim's residence to obtain medical treatment or mental health counseling, up to a maximum of two hundred dollars ($200) per claim or incident.*** Mental health counseling shall be paid for a maximum of ***either twenty-six (26) sessions or a period of six (6) months, whichever occurs first. Rates for therapy shall be reimbursed at a rate no greater than sixty dollars ($60) an hour for therapy from a licensed therapist, seventy-five dollars ($75) an hour for therapy received from a doctoral level therapist or a therapist who is also a licensed medical doctor, and twenty-five dollars ($25) a session for group or family therapy. The maximum reimbursement for mental health counseling for a primary victim of criminally injurious conduct shall be five thousand dollars ($5,000), with a two thousand dollar ($2,000) maximum benefit for secondary victims, including spouses, parents, or siblings of a homicide victim and the parent or sibling of a minor who is the victim of a sex crime. Reimbursement for mental health counseling shall be available***[~~two (2) years, but~~] only after proper documentation is

submitted to the board stating what treatment is planned and for what period of time. The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were broken or damaged during the crime.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed ***an amount calculated by multiplying the federally mandated minimum hourly wage by forty (40)***~~[one hundred fifty dollars ($150)]~~ for each week of lost earnings or support. The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars ($5,000).

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000).

(7) No award shall be made for any type of property loss or damage.

Section 7. KRS 346.140 is amended to read as follows:

(1) Any award made pursuant to this chapter shall ***not include***~~[be reduced by]~~ the amount of any payments received or to be received by the claimant as a result of the injury from the following sources:

  (a) From or on behalf of the person who committed the crime;
  (b) Under insurance programs mandated by law;
  (c) From public funds;
  (d) Under any contract of insurance wherein the claimant is the insured or beneficiary; and
  (e) As an emergency award pursuant to KRS 346.120.

(2) In determining the amount of an award, the board or board member, as the case may be shall determine whether, because of his conduct, the victim of such crime contributed to the infliction of his injury, and the board or board member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the board or board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurrence in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony. The board or board members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The board or board member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.

(3) The board or board member may consider whether the claimant's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award.~~[If the board or board member, as the case may be, finds that the claimant will not suffer serious financial hardships, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this chapter to meet such loss of earnings, support or out-of-pocket expenses, the board or board member shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardships.]~~

The Committee Substitute No. 1 to **HB 694** is as follows:

HB 694, AN ACT relating to the Crime Victims Compensation Board.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

A domestic violence or child abuse victim of criminally injurious conduct may receive a one (1) time payment of up to five hundred dollars ($500) for payment of relocation expenses, provided satisfactory documentation of the expenses related to the relocation is provided to the Board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 346 IS CREATED TO READ AS FOLLOWS:

To be eligible for compensation under this chapter, a victim or claimant shall have incurred and claim at least one hundred dollars ($100) in either medical expenses or lost wages, or a combination thereof, attributable to the criminally injurious conduct for which compensation is sought.

Section 3. KRS 346.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Crime Victims Compensation Board;

(2) "Child" means any person less than eighteen (18) years of age;

(3) "Claimant" means any of the following claiming compensation under this chapter: a victim, a dependent of a deceased victim, a third person other than a collateral source, or an authorized person acting on behalf of any of them who is legally responsible for the expenses incurred by the victim as a result of the crime committed against the victim;

(4) "Criminally injurious conduct" means conduct that occurs or is attempted in this jurisdiction, poses a substantial threat of personal physical, psychological injury, or death, and is punishable by fine, imprisonment, or death. Criminally injurious conduct shall include an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside of the United States against a resident of Kentucky. Acts which, but for the insanity or mental irresponsibility or lack of capacity of the perpetrator, would constitute criminal conduct shall be deemed to be criminally injurious conduct. The operation of a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle in violation of law does not constitute[~~ a~~] criminally injurious conduct unless the injury or death was intentionally inflicted,[~~ or~~] involved a violation of KRS 189A.010, ***or the injury or death was inflicted upon a pedestrian or other bystander not in a motor vehicle, motorcycle, train, boat, aircraft, or other vehicle***[~~ driving under the influence~~];

(5) "Family," when used with reference to a person, shall mean:

- (a) Any person related to such person within the third degree of consanguinity;
- (b) Any person maintaining a sexual relationship with such person; or
- (c) Any person residing in the same household with such person; and

(6) (a) "Victim" means a[~~ needy~~] person who suffers personal physical or psychological injury or death from a criminal act in Kentucky as a result of:

  1. Criminally injurious conduct;
  2. A good faith effort to prevent criminally injurious conduct; or
  3. A good faith effort to apprehend a person reasonably suspected of engaging in criminally injurious conduct.

(b) "Victim" shall also mean a resident who is a victim of a crime occurring outside this state if:

  1. The crime would be compensable had it occurred inside this state; and
  2. The crime occurred in a state which does not have a crime victim compensation program, for which the victim is eligible as eligibility is set forth in KRS 346.050.

(c) "Victim" shall also mean a resident of this state who is injured or killed by an act of terrorism, as defined in 18 U.S.C. sec. 2331, committed outside the United States.

Section 4. KRS 346.080 is amended to read as follows:

(1) A claim, when accepted for filing, shall be assigned by the clerk of the board to an investigator for investigation. All claims arising from the death of an individual as a direct result of a crime shall be considered together.

(2) The investigator to whom such claim is assigned shall examine the papers filed in support of the claim and the validity of the claim. The investigation shall include, but not be limited to, an examination of police, court, and official records and reports concerning the crime.

(3) If the mental, physical, or emotional condition of a victim or claimant is material to a claim, the board may order the victim or claimant to submit to a mental or physical examination by a physician or psychiatrist, and may order an autopsy of a deceased victim. A report upon an examination shall be filed with the investigator setting out findings, including results of all tests made, diagnosis, prognosis, and other conclusions.

(4) For purposes of this chapter, there is no privilege, except privileges arising from the attorney-client relationship, as to communications or records relevant to an issue of the physical, mental, or emotional condition of the claimant or victim in a proceeding under this chapter in which that condition is an element.

(5) Claims shall be investigated and determined, regardless of whether the alleged criminal has been apprehended or prosecuted for or convicted of any crime based upon the same incident, or has been acquitted, or found not guilty of the crime in question owing to criminal irresponsibility or other legal exemption.

(6) Upon completion of the investigator's report, the claim shall be assigned to a board member who may decide the claim in favor of a claimant in the amount claimed on the basis of the papers filed in support thereof and the report of the investigation of the claim within thirty (30) days of the assignment of the claim. If the board member is unable to decide the claim upon the basis of the papers and the report, he shall order a hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

(7) After examining the papers filed in support of the claim and the report of investigation, and after a hearing, if any, the

board member to whom the claim was assigned shall issue a recommended order either granting an award pursuant to KRS 346.130 or deny the claim. The board shall review the recommended order and any exceptions filed to it, and shall by majority vote issue a final order.

(8) ***If the Attorney General or claimant first petitions the board to reconsider*** a final order of the board ***issued in accordance with subsection (7) of this section, the board's final determination on reconsideration, and only that decision,*** may be appealed by the Attorney General or a claimant by filing a petition for judicial review in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 5. KRS 346.130 is amended to read as follows:

(1) No award shall be made unless the board or board member, as the case may be, finds that:

(a) Criminally injurious conduct occurred;

(b) Such criminally injurious conduct resulted in personal physical or psychological injury to, or death of, the victim; and

(c) Police records show that such crime was promptly reported to the proper authorities; and in no case may an award be made where the police records show that such report was made more than forty-eight (48) hours after the occurrence of such crime unless the board, for good cause shown, finds the delay to have been justified.

(2) The board upon finding that the claimant or victim has not fully cooperated with appropriate law enforcement agencies shall deny, reconsider, or reduce an award.

(3) Any award made pursuant to this chapter shall be in an amount not exceeding out-of-pocket expenses, including indebtedness reasonably incurred for medical or other services, including mental health counseling, necessary as a result of the injury upon which the claim is based, together with loss of earnings or support resulting from such injury. ***The board may include reimbursement for mileage at the rate provided for state employees incurred by a victim who is required to travel more than fifty (50) miles from the victim's residence to obtain medical treatment or mental health counseling, up to a maximum of two hundred dollars ($200) per claim or incident.*** Mental health counseling shall be paid for a maximum of two (2) years, but only after proper documentation is submitted to the board stating what treatment is planned and for what period of time. The board shall have the power to discontinue mental health counseling at any time within the two (2) year period. ***The board may, by promulgation of administrative regulations, set maximum rates for reimbursement of mental health services.*** Replacement of eyeglasses and other corrective lenses shall be included in an award, provided they were broken or damaged during the crime.

(4) Any award made for loss of earnings or support shall, unless reduced pursuant to other provisions of this chapter be in an amount equal to the actual loss sustained; provided, however, that no such award shall exceed ***an amount calculated by multiplying the federally mandated minimum hourly wage by forty (40)***[~~one hundred fifty dollars ($150)~~] for each week of lost earnings or support. The claimant or victim must have been employed at the time the crime occurred. Said employment shall be verified by the staff of the board after information is provided by the claimant or victim. Should the claimant or victim fail to supply the board with the information requested, the portion of the claim for lost wages or support shall be denied. If there are two (2) or more persons entitled to an award as a result of the injury or death of a person which is the direct result of criminally injurious conduct, the award shall be apportioned by the board among the claimants.

(5) The board is authorized to set a reasonable limit for the payment of funeral and burial expenses which shall include funeral costs, a monument, and grave plot. In no event shall an award for funeral expenses exceed five thousand dollars ($5,000).

(6) Any award made under this chapter shall not exceed twenty-five thousand dollars ($25,000) ***in total compensation to be received by a claimant from the fund***.

(7) No award shall be made for any type of property loss or damage.

Section 6. KRS 346.140 is amended to read as follows:

(1) ***(a) A claimant shall not receive compensation from the fund for the amount of damages covered by***[~~Any award made pursuant to this chapter shall be reduced by the amount of any~~] payments received or to be received by the claimant as a result of the injury from the following sources:

1.[~~(a)~~] From or on behalf of the person who committed the crime;

2.[~~(b)~~] Under insurance programs mandated by law;

3.[~~(c)~~] From public funds;

4.[~~(d)~~] Under any contract of insurance wherein the claimant is the insured or beneficiary; and

5.[~~(e)~~] As an emergency award pursuant to KRS 346.120.

(b) The claimant may still receive compensation from the fund for those damages for which no payment has been or will be received, up to the maximum amount as set out in subsection (6) of Section (6) of this Act.

(2) In determining the amount of an award, the board or board member, as the case may be shall determine whether, because

of his conduct, the victim of such crime contributed to the infliction of his injury, and the board or board member shall reduce the amount of the award or reject the claim altogether, in accordance with such determination; provided, however, that the board or board member, as the case may be, may disregard for this purpose the responsibility of the victim for his own injury where the record shows that such responsibility was attributable to efforts by the victim to prevent a crime or an attempted crime from occurrence in his presence or to apprehend a person who had committed a crime in his presence or had in fact committed a felony. The board or board members may request that either the county attorney or Commonwealth's attorney or both state whether in their opinion, the victim suffered injuries as the result of a crime and has cooperated with the prosecution and law enforcement authorities. The board or board member shall not be bound by such opinions and recommendations and if needed may order a further investigation of the claim.

(3) The board or board member may consider whether the claimant's injuries were the ordinary and foreseeable result of unlawful and criminal activities in determining the claimant's eligibility for an award.~~[If the board or board member, as the case may be, finds that the claimant will not suffer serious financial hardships, as a result of the loss of earnings or support and the out-of-pocket expenses incurred as a result of the injury, if not granted financial assistance pursuant to this chapter to meet such loss of earnings, support or out-of-pocket expenses, the board or board member shall deny an award. In determining such serious financial hardship, the board or board member shall consider all of the financial resources of the claimant. The board shall establish specific standards by rule for determining such serious financial hardships.]~~

The Committee on Appropriations and Revenue reported **HB 536, HB 541,** with Committee Amendments attached thereto, **HB 643,** and **HB 664,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 536, AN ACT relating to remittance of tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.155 is amended to read as follows:

(1) As used in this section the term "electronic fund transfer" means an electronic data processing medium that takes the place of a paper check for debiting or crediting an account and of which a permanent record is made.

(2) Notwithstanding any statutory provisions to the contrary, the cabinet may require ~~[all taxpayers and]~~ any~~[other]~~ person who is required to collect or remit taxes and fees administered by the cabinet ***or any person who acts on the taxpayer's behalf*** to remit those taxes and fees to the cabinet by electronic fund transfer. The transfer shall be made on or before the date the tax is due ***using the debit method or other means as prescribed by the cabinet by the promulgation of an administrative regulation.***~~[and]~~ The cabinet may permit the filing of the tax return following the date of the tax payment. ***Payment by electronic fund transfer may be required if:***

(a) The average payment per reporting period is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted;

(b) The payment for each tax or fee required to be collected or remitted is made on behalf of one hundred (100) or more taxpayers; or

(c) The aggregate of the funds to be remitted on behalf of others is ten thousand dollars ($10,000) or more for each tax or fee required to be collected or remitted~~[Taxpayers or any other person who is required to collect or remit taxes and fees administered by the cabinet whose average payment per reporting period is less than twenty-five thousand dollars ($25,000) as of August 1, 1998, seventeen thousand five hundred dollars ($17,500) as of July 1, 1999, and ten thousand dollars ($10,000) as of July 1, 2000 and thereafter for each tax or fee required to be collected or remitted shall not be required to remit the payments by electronic fund transfer]~~.

(3) The cabinet shall promulgate administrative regulations establishing electronic fund transfer requirements for the payment of taxes and fees administered by the cabinet.

(4) The cabinet may waive the requirement that a qualifying taxpayer remit the payment by electronic fund transfer if the taxpayer is unable to remit funds electronically.

(5) Taxpayers and any other persons who are required to collect or remit taxes administered by the cabinet by electronic fund transfer shall be entitled to receive refunds for any overpayment of taxes or fees, on or after July 1, 2001, by electronic fund transfer.

Section 2. This Act takes effect on August 1, 2000.

HB 541, AN ACT relating to corporate income tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 141.200 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Affiliated group" means affiliated group as defined in Section 1504(a) of the Internal Revenue Code and related regulations;

(b) "Consolidated return" means a Kentucky corporation income tax return filed by members of an affiliated group in accordance with this section. The determinations and computations required by this chapter shall be made in accordance with the provisions of Section 1502 of the Internal Revenue Code and related regulations, except as required by differences between this chapter and the Internal Revenue Code. Corporations exempt from taxation under KRS 141.040 shall not be included in the return;

(c) "Separate return" means a Kentucky corporation income tax return in which only the transactions and activities of a single corporation are considered in making all determinations and computations necessary to calculate taxable net income, tax due, and credits allowed in accordance with the provisions of this chapter.

(2) Every corporation doing business in this state, except those exempt from taxation under KRS 141.040, shall, for each taxable year, file a separate return unless the corporation was, for any part of the taxable year, a member of an affiliated group electing to file a consolidated return in accordance with subsection (3) of this section.

(3) (a) An affiliated group, whether or not filing a federal consolidated return, may elect to file a consolidated return which includes all members of the affiliated group.

(b) An affiliated group electing to file a consolidated return under paragraph (a) of this subsection shall be treated for all purposes as a single corporation under the provisions of this chapter. All transactions between corporations included in the consolidated return shall be eliminated in computing net income in accordance with KRS 141.010(13), and in determining the property, payroll, and sales factors in accordance with KRS 141.120.

(c) Any election made in accordance with paragraph (a) of this subsection shall be made on a form prescribed by the cabinet and shall be submitted to the cabinet on or before the due date of the return including extensions for the first taxable year for which the election is made.

(d) Any election to file a consolidated return pursuant to paragraph (a) of this subsection shall be binding on both the cabinet and the affiliated group for a period beginning with the first month of the first taxable year for which the election is made and ending with the conclusion of the taxable year in which the ninety-sixth consecutive calendar month expires.

(e) For each taxable year for which an affiliated group has made an election in accordance with paragraph (a) of this subsection, the consolidated return shall include all corporations which are members of the affiliated group.

(4) Each corporation included as part of an affiliated group filing a consolidated return shall be jointly and severally liable for the income tax liability computed on the consolidated return, except that any corporation which was not a member of the affiliated group for the entire taxable year shall be jointly and severally liable only for that portion of the Kentucky consolidated income tax liability attributable to that portion of the year that the corporation was a member of the affiliated group.

(5) Every corporation return or report required by this chapter shall be executed by one (1) of the following officers of the corporation: the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. The Revenue Cabinet may require a further or supplemental report of further information and data necessary for computation of the tax.

(6) In the case of a corporation doing business in this state that carries on transactions with stockholders or with other corporations related by stock ownership, by interlocking directorates, or by some other method, the cabinet shall require information necessary to make possible accurate assessment of the income derived by the corporation from sources within this state. To make possible such assessment, the cabinet may require the corporation to file supplementary returns showing information respecting the business of any or all individuals and corporations related by one (1) or more of these methods to the corporation. The cabinet may require the return to show in detail the record of transactions between the corporation and any or all other related corporations or individuals.

(7) Except as provided under subsection (3) of this section, nothing in this chapter shall be construed as allowing or requiring the filing of:

(a) A combined return under the unitary business concept; or

(b) A consolidated return.

(8) No assessment of additional tax due for any taxable year ending on or before December 31, 1994, made after December 22, 1994, and based on requiring a change from any initially filed separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose. No corporation that on or before December 22, 1994, initially filed a separate return for any taxable year ending on or before December 31, 1994, shall be required to change from a separate return to a combined return under the unitary business concept or to a consolidated return for that taxable year.

(9) No claim for refund or credit of a tax overpayment for any taxable year ending on or before December, 31, 1994, made by an amended return or any other method after December 22, 1994, and based on a change from any initially filed

separate return or returns to a combined return under the unitary business concept or to a consolidated return, shall be effective or recognized for any purpose. No corporation that on or before December 22, 1994, initially filed a separate return for any taxable year ending on or before December 31, 1994, shall be allowed to file an amended return or otherwise change from a separate return to a combined return under the unitary business concept or to a consolidated return for that taxable year.

(10) No corporation or group of corporations shall be allowed to file a combined return under the unitary business concept or a consolidated return for any taxable year ending during the period January 1, 1994, to December 31, 1994, unless on or before December 22, 1994, the corporation or group of corporations filed an initial or amended return under the unitary business concept or consolidated return for a taxable year ending before January 1, 1994.

(11) This section shall not be construed to limit or otherwise impair the cabinet's authority under KRS 141.205.

Section 2. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) through (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) through (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized

by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the cabinet pursuant to administrative regulations promulgated by the cabinet. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the cabinet may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's

business activity in this state, the corporation may petition for or the cabinet may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;
2. The exclusion of any one (1) or more of the factors;
3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or
4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:
   a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.
   b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.
   c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.
2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:
   a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and
   b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.
   c. Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(10) Public service companies and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) through (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the cabinet.

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the cabinet under paragraph (b) of this subsection.

~~[(11) Nothing in this section shall be construed as allowing or requiring the filing of a combined return under the unitary business concept or a consolidated return.]~~

Section 3. The provisions of subsection (7) of Section 1 of this Act shall apply for taxable years beginning on or after January 1, 1995. The provisions of subsections (8) to (11) of Section 1 of this Act shall apply for all taxable years not closed to assessment or refund on January 1, 2000.

The Committee Amendment No. 1 to **HB 541** is as follows:

On page 3, line 12, after "*(7)*" but before "***Except***" by inserting the following:

"***For any taxable year ending on or after December 31, 1995,***"; and

on page 3, line 17, by deleting the first "***1994***" as it appears in the line and inserting in lieu thereof "***1995***"; and

on page 3, beginning with line 20 after the period "." by deleting the remainder of the line and deleting lines 21 to 24 in their entirety; and

on page 3, line 26, by deleting "***1994***" and inserting in lieu thereof "***1995***"; and

on page 4, beginning with line 3 after the period "." by deleting the remainder of the line and deleting lines 4 to 7 in their entirety; and

on page 4, line 10, after the word "***ending***" by inserting "***before December 31, 1995,***" and deleting the remainder of the line in its entirety; and

on page 4, line 13, by deleting "***January 1, 1994***" and inserting in lieu thereof "***December 22, 1994***"; and

on page 12, line 25, after "apply", insert "retroactively";

on page 12. line 26, by deleting "beginning on or after January 1, 1995." and inserting in lieu thereof "ending on or after December 31, 1995."; and

on page 12, line 27, after "apply", insert "retroactively"; and

on page 12, line 27, to page 13, line 1, delete "not closed to assessment or refund on January 1, 2000" and insert "ending before December 31, 1994" in lieu thereof; and

on page 13, line 2, insert the following:

"Section 4. Whereas the fiscal year begins on July 1 and the General Assembly finds that it is critical that this Act take effect at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2000.".

The Committee Amendment No. 2 Title to **HB 541** is as follows:

Amend the title to read as follows: "AN ACT relating to corporate income tax and declaring an emergency.".

HB 643, AN ACT relating to hazardous waste.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.46-580 is amended to read as follows:

(1) The General Assembly declares that it is the purpose of this section to promote the development of statewide programs, under the responsibility of a single agency, which are intended to protect the health of the citizens and the environment of the Commonwealth from present and future threats associated with the management of hazardous wastes and the release of toxic chemicals regulated under Title III, Section 313 of the Superfund Amendments and Reauthorization Act of 1986, including disposal, treatment, recycling, storage, and transportation. The intent of the General Assembly is to add to and coordinate, and not replace, existing efforts and responsibilities in the areas of hazardous waste management, toxic chemical manufacture, processing, or other use, and to leave the primary burden and responsibility for hazardous waste and toxic chemical reduction on private industry; and further to finance assistance and coordination by imposing assessments on the generation of hazardous waste. The assessments are intended to produce a reduction in waste generated; to promote the use of new techniques in recycling, treatment, and alternatives other than land disposal; and to place the burden of financing additional hazardous waste management activities necessarily undertaken by state agencies on the users of those products associated with the generation of hazardous waste. The General Assembly further finds that Kentucky's industries need assistance in developing and implementing pollution prevention goals and that a fund should be established to provide technical and financial assistance to those industries.

(2) The Natural Resources and Environmental Protection Cabinet is given the authority to administer the provisions and programs of this section and the responsibility to achieve the purposes of this section.

(3) In addition to all specific responsibilities contained elsewhere in this chapter, the cabinet shall:

(a) Respond effectively and in a timely manner to emergencies created by the release of hazardous substances, as defined in KRS 224.01-400, into the environment. The cabinet shall provide for adequate containment and removal of the hazardous substances in order that the threat of a release or actual release of the substance may be abated and resultant harm to the environment minimized. The provisions of KRS 45A.695 to 45A.725 may be suspended by the cabinet if necessary to respond to an environmental emergency.

(b) Provide for post-closure monitoring and maintenance of hazardous waste disposal sites upon termination of post-closure monitoring and maintenance responsibilities by persons permitted to operate the facility pursuant to this chapter.

(c) Identify, investigate, classify, contain, or clean up any release, threatened release, or disposal of a hazardous substance where responsible parties are economically or otherwise unavailable to properly address the problem and the problem represents an imminent danger to the health of the citizens and the environment of the Commonwealth.

(4) The cabinet shall have the authority to finance the nonfederal share of the cost for clean up of sites under the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (Public Law 96-510).

(5) The cabinet shall recover, when possible, actual and necessary expenditures incurred in carrying out the duties under this section. Any expenditures recovered shall be placed in the hazardous waste management fund.

(6) It is the expressed purpose of this section to accomplish effective hazardous waste and toxic chemical management that results in a reduction of the generation of hazardous wastes and the release of toxic chemicals within the Commonwealth; further, it is a purpose of this chapter to allocate a portion of the cost of administering necessary governmental programs related to hazardous waste and toxic chemical management to those industries whose products are reasonably related to the generation of hazardous waste.

(7) There is hereby imposed upon every person engaged within this state in the generation of hazardous waste an annual hazardous waste assessment to be determined pursuant to this section according to the quantity by weight of hazardous waste generated, except that no assessment shall be levied against generators for any quantity of "special wastes," waste oil, or spent material from air pollution control devices controlling emissions from coke manufacturing facilities. The assessment shall not be imposed upon any person for any quantities of hazardous waste generated by others for which that person is a secondary handler that stores, processes, or reclaims the waste. The assessment shall be reported and paid to the Natural Resources and Environmental Protection Cabinet for the generation of hazardous waste on an annual basis on January 1 of each year. The payment shall be accompanied by a report or return in a form that the cabinet may prescribe. If a federal law is enacted which accomplishes or purports to accomplish the purposes set forth in this section and which levies an assessment or tax upon any business assessed pursuant to this section, the amount of the assessment to be levied upon the business under this section shall be reduced by the amount of the federal assessment or tax upon the business. The reduction shall only be authorized when funds raised by the federal assessment or tax are made available to the state for any of the activities to be funded under this section. If federal moneys are available to carry out the duties imposed by subsection (3) of this section, the assessment shall cease to be levied and collected until such time as federal moneys are no longer available to the Commonwealth for these purposes.~~[The assessment shall be charged against generators of hazardous waste until June 30, 2000. After this date, no further hazardous waste management assessment shall be charged against generators.]~~

(8) The assessment on generators shall be one and two-tenths cents ($0.012) per pound if the waste is liquid, or two-tenths of a cent ($0.002) per pound if the waste is solid.

(a) Hazardous waste that is injected into a permitted underground injection well shall be assessed on a dry weight basis;

(b) Hazardous waste treated, detoxified, solidified, neutralized, recycled, incinerated, or disposed of on-site shall be assessed at one-half (1/2) of the appropriate rate, except for recycled waste used in the steel manufacturing process which shall be exempt; and

(c) Waste that is subject to regulation under Section 402 or 307B of the Federal Clean Water Act shall be exempt.

(9) Except for waste brought into the state by a company to an affiliated manufacturing facility of the company receiving the waste, any person who transports hazardous waste into the state for land disposal or treatment which is generated outside of the state shall pay an assessment to the hazardous waste facility which first receives the waste for storage, treatment, or land disposal. The assessment rate shall be identical to the rate described in subsection (8) of this section. The facility shall remit the assessment to the cabinet on an annual basis on January 1 of each year. The payment shall be accompanied by a return the cabinet shall prescribe.

(10) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails or refuses to file a return or furnish any information requested in writing by the cabinet, the cabinet may, from any information in its possession, make an estimate and issue an assessment against the generator or hazardous waste facility and add a penalty of ten percent (10%) of the amount of the assessment so determined. This penalty shall be in addition to all other

applicable penalties in this chapter.

(11) If any generator or hazardous waste facility subject to the provisions of subsection (8) or (9) of this section fails to make and file a return required by this chapter on or before the due date of the return or the due date as extended by the cabinet, unless it is shown to the satisfaction of the cabinet, that the failure is due to reasonable cause, five percent (5%) of the assessment found to be due by the cabinet shall be added to the assessment for each thirty (30) days or fraction thereof elapsing between the due date of the return and the date on which it is filed, but the total penalty shall not exceed twenty-five percent (25%) of the assessment.

(12) If the assessment imposed by this chapter, whether assessed by the cabinet, or the generator, or any installment or portion of the assessment is not paid on or before the date prescribed for its payment, there shall be collected, as a part of the assessment, interest upon the unpaid amount at the rate of eight percent (8%) per annum from the date prescribed for its payment until payment is actually made to the cabinet.

(13) There is hereby created within the State Treasury a trust and agency fund which shall not lapse to be known as the hazardous waste management fund. The fund shall be deposited in an interest-bearing account. The cabinet shall be responsible for collecting and receiving funds as provided in this section, and all such assessments collected or received by the State Treasury shall be deposited in the hazardous waste management fund. All interest earned on the money deposited in the fund shall be deposited to the fund. When the State Treasurer certifies to the cabinet that the uncommitted balance of the hazardous waste management fund exceeds six million dollars ($6,000,000), assessments shall not be collected until the State Treasurer certifies to the cabinet that the balance in the hazardous waste management fund is less than three million dollars ($3,000,000). The implementation of the cap on the fund shall be suspended from July 13, 1990, until July 1, 1991. In addition, for assessments paid after July 1, 1991, the cabinet shall refund or grant a credit against the next assessment to come due, on a pro-rated basis, any money collected in one (1) year in excess of the cap.

(14) There is hereby created within the State Treasury a trust and agency account which shall not lapse to be known as the pollution prevention fund. The fund shall be placed in an interest-bearing account. The fund shall be administered by the Center for Pollution Prevention. The cabinet shall remit to the fund each fiscal year twenty percent (20%) of the funds received by the hazardous waste management fund subject to the enacted budget bill. The cabinet shall provide to the center estimates of the amount of the hazardous waste assessment expected to be collected during each upcoming fiscal year.

(15) Upon request of the secretary, moneys accumulated in the hazardous waste management fund shall be released in amounts necessary to accomplish the performance of the duties imposed by subsection (3) of this section. However, moneys from the fund shall not be used when federal moneys are available to carry out these duties, except when immediate action is required to protect public health or the environment, in which case the cabinet shall actively pursue reimbursement of the fund by any available federal moneys.

(16) If any person responsible for a release or threatened release of a hazardous substance fails to take response actions or to make reasonable progress in completing response actions ordered by the cabinet, the cabinet may bring an action to compel performance or may take appropriate response actions and order the responsible person to reimburse the cabinet for the actual costs incurred by the cabinet.

(17) If disposal activities have occurred at a hazardous waste site, the cabinet shall record in the office of the county clerk in the county in which a waste site is situated a notice containing a legal description of the property that discloses to any potential transferee that the land was used to dispose hazardous waste and that further information on the hazardous waste site may be obtained from the cabinet.

(18) No person shall affect the integrity of the final cover, liners, or any other components of any containment system after closure of a hazardous waste site on or in which hazardous waste remains without prior written approval of the cabinet.

HB 664, AN ACT relating to sales and use tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made

for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

    (a) Operate farm machinery as defined in subsection (11) of this section;
    (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
    (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
    (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
    (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
    (f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for

sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(27) Baling twine and baling wire for the baling of hay and straw;

(28) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, ***cervids,*** llamas, alpacas, buffalo, or aquatic organisms;

(29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~[and]~~

(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities***; and***

(31) Members of the genus cervidae permitted by KRS Chapter 150 that are used for the production of hides, breeding stock, meat, and cervid by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other chemicals; and

(c) On-site facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities.

The Committee Amendment No. 1 to **HB 664** is as follows:

On page 7, after line 24 by inserting the following:

"Section 2. This Act takes effect August 1, 2000.".

The Committee on Appropriations and Revenue reported **HB 44, HB 386,** with Committee Substitute and Committee Amendment attached thereto, and **HB 476,** with Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Amendment No. 1 to the Committee Substitute to **HB 386** is as follows:

On page 11, line 10, after "***accuracy***", by deleting "***every six (6) years***"; and

On page 11, line 11, after "***Agriculture***", by deleting the rest of the new language in the section and inserting "***or at the request of the director or the permitted producer.***".

The Committee Amendment No. 1 to **HB 476** is as follows:

On page 9, line 19, after "(2)" by inserting the following:

"For the 2000-2002 biennium, there is appropriated an amount not to exceed twenty million dollars ($20,000,000) for the General Fund Surplus Account to be used as provided in Section 11 of this Act. This appropriation is provided on a contingent basis subject to certification by the commissioner of the Department for Local Government that the terms of this legislation have been satisfied. The certification shall be made to the secretary of the Finance and Administration Cabinet and the state budget director who shall be authorized to make available the appropriate amounts." and by deleting the remainder of the line; and

On page 9, beginning with line 20, by deleting lines 20 and 21 in their entirety.

The Committee Amendment No. 2 to **HB 476** is as follows:

On page 7, by deleting lines 15 to 23 in their entirety; and

On page 8, line 12, after "Section 11." by deleting the remainder of the line in its entirety; and

On page 8, line 13, by deleting "Act,"; and

On page 9, line 16, after "Section 12." by deleting the remainder of the line in its entirety; and

On page 9, by deleting lines 17 and 18 in their entirety; and

On page 9, line 19, by deleting "(2)"; and

By renumbering sections to conform.

The Committee on Health and Welfare reported **HB 564** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 564, AN ACT relating to immunizations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 214.034 is amended to read as follows:

Except as otherwise provided in KRS 214.036:

(1) All parents, guardians, and other persons having care, custody, or control of any child shall have the child immunized against diphtheria, tetanus, poliomyelitis, pertussis, measles, rubella, mumps, hepatitis B, and haemophilis influenzae disease in accordance with testing and immunization schedules established by regulations of the Cabinet for Health Services. Additional immunizations may be required by the Cabinet for Health Services through the promulgation of an administrative regulation pursuant to KRS Chapter 13A if recommended by the United States Public Health Service or the American Academy of Pediatrics. All parents, guardians, and other persons having care, custody, or control of any child shall also have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health Services promulgated under KRS Chapter 13A. The persons shall also have booster immunizations administered to the child in accordance with the regulations of the Cabinet for Health Services.

(2) A local health department may, with the approval of the Department of Public Health, require all first-time enrollees in a public or private school within the health department's jurisdiction to be tested for tuberculosis prior to entering school. Following the first year of school, upon an epidemiological determination made by the state or local health officer in accordance with administrative regulations promulgated by the Cabinet for Health Services, all parents, guardians, and other persons having care, custody, or control of any child shall have the child tested for tuberculosis, and shall have any child found to be infected with tuberculosis examined and treated according to administrative regulations of the Cabinet for Health Services. Nothing in this section shall be construed to require the testing for tuberculosis of any child whose parent or guardian is opposed to such testing, and who objects by a written sworn statement to the testing for tuberculosis of the child on religious grounds. However, in a suspected case of tuberculosis, a local health department may require testing of this child.

(3) All public or private primary or secondary schools, and preschool programs shall require a current immunization certificate for any child enrolled as a regular attendee, as provided by administrative regulation of the Cabinet for Health Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance.

(4) ***All public or private primary schools shall require a current immunization certificate for hepatitis B for any child enrolled as a regular attendee in the sixth grade, as provided by administrative regulation of the Cabinet for Health Services, promulgated under KRS Chapter 13A, to be on file within two (2) weeks of the child's attendance. This provision shall sunset following the 2008-2009 school year unless otherwise authorized by the General Assembly.***

(5) For each child cared for in a day-care center, certified family child-care home, or any other licensed facility which cares for children, a current immunization certificate, as provided by administrative regulation of the Cabinet for Health Services, promulgated under KRS Chapter 13A, shall be on file in the center, home, or facility within thirty (30) days of entrance into the program or admission to the facility.

(6)[~~(5)~~]Any forms relating to exemption from immunization requirements shall be available at public or private primary or secondary schools, preschool programs, day-care centers, certified family child-care homes, or other licensed facilities which care for children.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Tourism, Development, and Energy: **HB 651, HB 693**

Banking and Insurance: **HB 518**

Appropriations and Revenue: **HB 534**

Judiciary: **HB 289, HB 734, HB 678, HB 671, HB 432, HB 690, HB 716, HB 446, HB 430, HB 151, HB 197, HB 351, HB 366, HB 493, HB 557, SB 92**

Agricultural and Small Business: **HB 568, HB 665, HB 666, HB 696, HB 722, SB 139**

Calendar

HB 158 and **HB 543** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 647, HB 190, HB 259, HB 329, HB 494, HB 525, HB 634, SB 62, HB 8, HB 180, HB 158,** and **HB 543** have been posted for passage in the Orders of the Day for February 23, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 322, HB 488, HB 554, HB 606, SJR 17, HB 593, HB 611, SB 33**

Orders of the Day

Representative Jenkins moved the adoption of the following **HR 105**:

HR 105, A RESOLUTION adjourning the House of Representatives in honor of the American Red Cross of Kentucky.

WHEREAS, the Kentucky House of Representatives recognizes the exceptional deeds performed by the American Red Cross of Kentucky when aiding Kentucky families who are touched by tragedy each year; and

WHEREAS, the Kentucky House of Representatives commends the American Red Cross of Kentucky for organizing blood drives which aid in the treatment of those who have fallen due to accident or illness; and

WHEREAS, the Kentucky House of Representatives further recognizes the countless hours of service-without-pay donated by the volunteers of the American Red Cross of Kentucky; and

WHEREAS, the Kentucky House of Representatives gratefully acknowledges the sacrifices made by Red Cross volunteers who travel to remote areas, in and out of the Commonwealth of Kentucky, to offer emergency food, shelter and medical treatment; and

WHEREAS, the Kentucky House of Representatives recognizes that the Federal Volunteer Protection Act of 1997, which protects the objectives of the Good Samaritan volunteers of the American Red Cross, would preempt and prevail over Kentucky state laws which would seek to protect and regulate such activities;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives is indeed proud and honored to recognize the American Red Cross of Kentucky, and the brave men and women who serve the Commonwealth's citizens through their volunteer efforts.

Section 2. The House of Representatives does hereby commend the American Red Cross of Kentucky for its dedication to the service of Kentucky families in need of emergency aid.

Section 3. When the House of Representatives adjourns this day, it does so in honor of the American Red Cross of Kentucky.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Adrian Arnold for presentation to the American Red Cross of Kentucky.

There being no objection **HR 105** was adopted.

HB 120, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved the adoption of Floor Amendment No. 1 to **HB 120**. Agreed.

Representative Graham moved that **HB 120**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 22, 2000 roll call on **HB 120** - Appendix.)

HB 120, as amended, was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 120**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 505 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 505** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 22 , 2000 roll call on **HB 505** - Appendix.)

HB 505 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 505** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 486 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **HB 486** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 22 , 2000 roll call on **HB 486** - Appendix.)

HB 486 was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 486** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 438, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the Committee Substitute to **HB 438**. Agreed.

Representative Siler moved that **HB 438**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 22, 2000 roll call on **HB 438** - Appendix.)

HB 438, by way of Committee Substitute, was passed and the title agreed to.

Representative Siler moved that the vote by which **HB 438**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 540 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved that **HB 540** be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 22 , 2000 roll call on **HB 540** - Appendix.)

HB 540 was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 540** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 61 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Napier moved that **HJR 61** be adopted.

On the roll call the vote was: **Yeas 94, Nays 2**. (See February 22, 2000 roll call on **HJR 61** - Appendix.)

HJR 61 was adopted.

Representative Napier moved that the vote by which **HJR 61** was adopted be reconsidered and said motion be placed on the table. Agreed.

HJR 78 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved that **HJR 78** be adopted.

On the roll call the vote was: **Yeas 90**, **Nays 0**. (See February 22, 2000 roll call on **HJR 78** - Appendix.)

HJR 78 was adopted.

Representative Vincent moved that the vote by which **HJR 78** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 604 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **HB 604** be passed.

On the roll call the vote was: **Yeas 94**, **Nays 0**. (See February 22 , 2000 roll call on **HB 604** - Appendix.)

HB 604 was passed and the title agreed to.

Representative Crimm moved that the vote by which **HB 604** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 542, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Floor Amendment No. 1 to **HB 542**. Agreed.

Representative Moberly moved that **HB 542**, as amended, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See February 22, 2000 roll call on **HB 542** - Appendix.)

HB 542, as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 542**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so by voice vote. Agreed

Representative Stumbo moved that when the House adjourns it does so until 2:00 p.m., February 23, 2000. Agreed.

Representative Stumbo moved that **HB 587** be reassigned to the Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 765, by Representatives Branham, Baugh, Gooch, Crimm, and Bruce: AN ACT relating to insurance.

HB 766, by Representative Cherry: AN ACT relating to the underground storage tank program.

HB 767, by Representative Worthington: AN ACT relating to sales and use taxes.

HB 768, by Representative Palumbo: AN ACT relating to household goods certificates.

HB 769, by Representative Jenkins: AN ACT relating to the operation of railroads.

HB 770, by Representative Jenkins: AN ACT relating to juries.

HB 771, by Representative Lee: AN ACT relating to public health departments.

HB 772, by Representative Cave: AN ACT relating to insurance.

HB 773, by Representative J. Adams: AN ACT relating to the Tennessee Valley Authority.

HB 774, by Representative Wilkey: AN ACT relating to excise taxes.

HB 775, by Representatives Anderson and Alexander: AN ACT relating to real property of the Commonwealth.

HB 776, by Representative Worthington: AN ACT relating to property taxes.

HB 777, by Representative Ford: AN ACT relating to candidates for office.

HB 778, by Representative Thomas: AN ACT relating to commercial feed.

HB 779, by Representative Gray: AN ACT relating to exemptions from compulsory school attendance.

HB 780, by Representative Yonts: AN ACT relating to designation of Kentucky National Guard Day.

HB 781, by Representatives P. Clark and Stacy: AN ACT relating to motor fuel.

HB 782, by Representatives P. Clark and Stacy: AN ACT relating to vehicle emission testing.

HB 783, by Representative Thomas: AN ACT relating to speed limits.

HB 784, by Representative Wilkey: AN ACT relating to disability retirement.

HR 109, by Representative Marzian: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Glenn Alexander Price.

HCR 110, by Representatives Anderson and Fischer: A CONCURRENT RESOLUTION relating to circuit clerks.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Labor and Industry: **HB 659**

Health and Welfare: **HB 676**

Motions, Petitions, and Communications (Continued)

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HJR 78**. Agreed.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 540**. Agreed.

Representative Hoffman moved the adoption of the following **HR 95**:

HR 95, A RESOLUTION recognizing Yuko-En On The Elkhorn: The Kentucky-Japan Friendship Garden as the official Kentucky Japanese Garden.

WHEREAS, Georgetown-Scott County was chosen as the location of the Toyota Motor Manufacturing facility in 1985, leading the way to significant new economic growth in the Commonwealth of Kentucky; and

WHEREAS, Georgetown-Scott County has received statewide and national recognition for its progressive planning to retain the best of Kentucky traditions while making leading innovations in education, environment, and quality of life for its future citizens; and

WHEREAS, Georgetown-Scott County, through its broad-based Scott Education Foundation, has established an active international program for its citizens through its close relationship with Tahara-cho, Japan, a sister-city relationship which will celebrate its tenth anniversary in September, 2000, with people-to-people activities in both Georgetown and Tahara-cho;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body is indeed proud to recognize Yuko-En On The Elkhorn: The Kentucky-Japan Friendship Garden as the official Kentucky Japanese Garden.

Section 2. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Charlie Hoffman for presentation in September, 2000, to the Yuko-En On The Elkhorn: The Kentucky-Japan Friendship Garden.

There being no objection **HR 95** was adopted.

Representative Allen moved the adoption of the following **Legislative Citation No. 70**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Shannon Lee and respectfully joins with Representative Woody Allen in expressing its deepest sympathy to her beloved husband, Eddie Lee; her devoted parents, Mr. and Mrs. James G. Woodrum; her cherished sister Tonya White; her cherished grandmother Phoebe Woodrum; and all who share in the great loss on the passing of this fine and esteemed citizen. Born in Jefferson County, she was a highly-regarded teacher at Morgantown Elementary School and a member of the Morgantown Community Church. Honored and remembered on this day for her many and generous contributions to her family, students, colleagues and friends, Shannon Lee will be deeply missed by all those whose lives were touched by her remarkable presence. Done in Frankfort, this twenty-second day of February, in the year of our Lord, two thousand.

Legislative Citation No. 70 was adopted without objection.

Representative Nesler moved the adoption of the following **Legislative Citation No. 71**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Anita F. Bouland and offers its sincerest condolences to all those who share in the loss of this highly-regarded Kentucky citizen. The beloved wife of Howard Bouland; cherished mother of Tina Rachael, Charity Burgess and Amy Beth Bouland; esteemed sister of Phillip McClain, Ricky McClain, Michael McClain, Ginger Williams, Beverly McGee and Janie Sweatt and the doting grandmother of four grandchildren, she was the loving daughter of Edna McClain and was preceded in death by her father, "Big" Frank McClain and her brothers, Terry McClain and Jimmy McClain. She was a supervisor at Seaboard Farms and a devoted member of the New Home Baptist Church. The esteemed members of this honorable body join with Representative Fred Nesler in honoring the memory of Anita F. Bouland for the valuable contributions her presence lent to her family, her friends and her community. Done in Frankfort, this twenty-second day of February, in the year two thousand.

Legislative Citation No. 71 was adopted without objection.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **SB 62**, by Representative Simpson:

On page 1 line 8 after the word "***Kentucky***" by inserting "***. A deputy sheriff may be required to be a resident of the county in which he serves***".

Floor Amendment No. 1 to **HB 606**, by Representative Collins:

On page 3, line 10, by deleting "***or***"; and

On page 3 line 13, deleting the period and inserting "***;or***" in lieu thereof; and

On page 3, between lines 13 and 14, by inserting the following:

"***(d) Any contractor who has no more than two (2) employees, whether full-time or part-time employees.***".

Floor Amendment No. 2 to **HB 606**, by Representative Haydon:

On page 1, line 21, after the word "***structures***" by inserting "***, where the cost of undertaking is more than one thousand dollars ($1,000)***"; and

On page 2, line 17, after "***227.4901,***" by inserting "***234.120,***"; and

On page 2, line 18, after "***227.4901,***" by inserting "***234.120,***"; and

On page 3, line 22, by deleting "***a listing of proofs***" and inserting in lieu thereof "***procedures***"; and

On page 4, line 19, by deleting "***and***", and after "***227.480(2)***" by inserting "***, and 234.120***"; and

On pages 5 and 6, by deleting subsection 5 in its entirety; and

On page 15, after line 3, by inserting the following:

"Section 9. KRS 176.130 is amended to read as follows:

(1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the department for the construction or maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the department to bid on such work.

(2) All applications for a certificate of eligibility shall be made to the department in writing, and the department shall act upon the application within thirty (30) days after the application is filed. ***The application shall contain proof of compliance with the provisions of Sections 1 to 7 of this Act and the certificate of eligibility shall be recognized by the Department of Housing, Buildings and Construction as proof of compliance with Sections 1 to 7 of this Act.***

(3) A certificate of eligibility is not necessary where the department purchases equipment, material and supplies directly, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots.".

Floor Amendment No. 1 to **HB 634**, by Representative Cave:

On page 11, line 19 after the second use of the word "***covered***" and before "***options***" by deleting "***up***" and by inserting in lieu thereof "***put***";

On page 13, line 19 after "***Regulations***" by deleting "***sec.***" and by inserting in lieu thereof "***Par.***";

On page 14, line 24 after "***is***" and before "***less***" by deleting "***not***" and inserting in lieu thereof "***no***";

On page 15, line 20 after "***78***" and before "***et***" by deleting "***a***";

On page 16, line 15 after "***stock***" and before "***futures***" by deleting "***interest***" and by inserting in lieu thereof "***index***";

On page 17, line 23 by deleting "***relocate***" and inserting in lieu thereof "***replicate***";

On page 22, line 16, after "***(1)***" by inserting "***(a)***"; and

On page 22, after line 18, by inserting:

"***(b) This subtitle shall apply to investments and investment practices of domestic insurers and United States branches of alien insurers entered through this state. This subtitle shall not apply to separate accounts of an insurer except to the extent that the provisions of Section 31 of this Act so provide.***"; and

On page 30, line 20 before "***life***" by adding "***domestic***" and after the first comma, by deleting "***of domestic insurers,***" and after "***alien***" by adding '***life and health***";

On page 32, line 19 after "***not***" and before "***be***" by inserting "***thereby***";

On page 36, line 22 after "***incur***" and before "***indebtedness***" by deleting "***an***" and inserting in lieu thereof "***any***";

On page 41, line 3 after "***agreement***" and before '"***the***" by deleting "***gives***" and inserting in lieu thereof "***provides***";

On page 42, line 3 by deleting "***305.37-030***" and by inserting in lieu thereof "***304.37-030***";

On page 58, line 4 after the second use of the word "***of***" by adding "***domestic***";

On page 58, line 6 after "***alien***" and before "***insurers***" by inserting "***property and casualty, financial guaranty, and mortgage guaranty***";

On page 59, line 4 by deleting "***Determining***" and by inserting in lieu thereof "***Determination of***";

On page 78, line 23 after "***or***" and before "***custodian***" by deleting "***its***";

On page 80, line 14 after "***collateral***" and before "***held***" by deleting "***being***" and by inserting in lieu thereof "***then***";

On page 82, line 14 after "***is***" and before "***authorized***" by deleting "***not***"; and

On page 86, line 6, after "***acquire***" and before "***investment***" by deleting "***an***" and by inserting in lieu thereof "***any***".

Floor Amendment No. 2 to **SB 123**, by Representative Anderson:

On page 6, line 22, by deleting "***:***" ; and
by deleting all of line 23 and 24; and
on line 25, by deleting "***(b)***"

Floor Amendment No. 3 to **SB 123**, by Representative Anderson:

On page 2, line 25, after "***United States;***", by deleting "***or***"; and

On page 3 line 3, after "***1355a;***" by inserting "***or***" and after line 3, by inserting the following:

"***(e) Any American-made goods that have been sold on the international market;***"

Floor Amendment No. 4 to **SB 123**, by Representative Anderson:

On page 7, after line 4, by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

In order to determine how many foreign-made or reimported cigarettes are being sold in the Commonwealth, wholesalers shall be required to report to the Kentucky Revenue Cabinet how many foreign-made and reimported cigarette packages they have stamped with Kentucky stamps. The reports shall be submitted by February 1 of each year for the preceeding calendar year."; and

On page 7, line 5 by deleting "11" and replacing it with "12"

Floor Amendment No. 5 to **SB 123**, by Representative Anderson:

On page 7, after line 4 by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

Each company that manufactures cigarettes that are brought into Kentucky shall file a report describing the percentage of American-grown tobacco used in any cigarettes that are brought into the Commonwealth. The report shall be filed with the Kentucky Department of Agriculture by February 1 of each year for the previous calendar year."; and

On page 7, line 5 by changing "11" to "12"

Floor Amendment No. 6 to **SB 123**, by Representative Anderson:

On page 7, after line 4, by inserting the following:

"SECTION 11 . A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Cigarette manufacturers that offer cigarette promotions to retailers shall offer the promotions equally to all retailers."; and

on page 7, line 5 by deleting "11" and replacing it with "12".

Floor Amendment No. 7 to **SB 123**, by Representative Anderson:

On page 7, after line 4, by inserting the following:

"SECTION 11. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

If those individuals who are conducting gray market sales are paying into the escrow account for nonparticipating manufacturers under the Master Settlement Agreement, then the provisions of Sections 2 to 10 of this Act shall not apply to those individuals. For the purposes of this section, gray market sales are those resulting when cigarettes are manufactured in the United States for export, are exported, and are brought back into the United States."; and

On page 7, line 5, by changing "11" to "12"

Floor Amendment No. 8 to **SB 123**, by Representative Anderson:

On page 6, starting on line 13, by deleting all of subsection (3).

Floor Amendment No. 9 to **SB 123**, by Representative Anderson:

After the enacting clause by deleting all provisions of the bill and inserting in lieu the following:

Section 1. For the purposes of this Section, "gray market" cigarettes means cigarettes that are manufactured in the United States for export, are exported, and are brought back into the United States for sale.

(1) The Interim Joint Committee on Agriculture and Natural Resources shall undertake a study on gray market cigarette sales. The study shall include but not be limited to the following:

  (a) Inquiries regarding the effect that legislation banning gray market cigarettes sales has had in other states, including the legislation's effect on domestic sales in that state;

  (b) Inquiries regarding the effect that gray market cigarette sales are having on payments by participating manufacturers into the Master Settlement Agreement funds that are to be returned to states under the Master Settlement Agreement; and

(c) Inquiries regarding the constitutionality and other legal questions raised by gray market cigarette legislation.

(2) The study shall be completed and submitted to the Legislative Research Commission by August 1, 2001.

(3) Provisions of this section to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Floor Amendment No. 10 Title to **SB 123**, by Representative Anderson:

By amending the title to read as follows: "AN ACT relating to cigarettes".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 114: Representative Bather

HB 380: Representatives J. Adams, Burch, D. D. Butler, L. Clark, Crenshaw, Geveden, Napier, Yonts

HB 488: Representatives Bratcher, Sims

HB 506: Representative Adkins

HB 575: Representative Thomas

HB 618: Representative Stewart

HB 675: Representative Bratcher

HB 699: Representative Stewart

HB 706: Representative Rasche

HB 740: Representative Stewart

HB 747: Representatives Cornett, Feeley, J. Turner

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 759: Representative D. Butler

Announcements

The following meetings were announced:

Labor and Industry, February 23, 2000, 8:00 a.m., Room 149

Education, February 23, 2000, 8:00 a.m., and upon adjournment

Natural Resources and Environment, February 22, 2000, upon adjournment

Transportation, February 23, 2000, 10:00 a.m.

State Government, February 23, 2000, upon adjournment

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m. February 23, 2000.

The motion that the House adjourn until 2:00 p.m. February 23, 2000, was adopted by voice vote.

FEBRUARY 23, 2000

THIRTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Brother Joe Adams, Chaplain, Christian Ministries, Bardstown.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Sims.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 22, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Veto Message

The veto message on **SB 25** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **Senate Bill 25** as enacted by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reason: **Senate Bill 25** is an Act related to reorganization and creates new sections of KRS Chapter 154 to establish the Eastern Kentucky Exposition Center Corporation. At the request of the sponsor of this legislation, I do hereby veto **Senate Bill 25**.

Done this 18th day of February, 2000 in Frankfort, Kentucky at 2:10 p.m.

Senate Message

Announcing passage of **SB 149, SB 170, SB 194, SB 197,** and **SB 206**. (Time: 2:15 p.m.)

Introduction of Bills and Resolutions

HB 785, by Representative Stein: AN ACT relating to eavesdropping.

HB 786, by Representative Palmer: AN ACT relating to crimes and punishments.

HB 787, by Representatives R. Adams, Thomas, McKee, and A. Arnold: AN ACT relating to trust and agency accounts.

HB 788, by Representatives Webb and Stacy: AN ACT relating to check authorization companies.

HB 789, by Representatives Westrom and Cave: AN ACT relating to intellectual property.

HB 790, by Representatives Baugh and Crimm: AN ACT relating to insurance.

HB 791, by Representative J. Adams: AN ACT relating to special military license plates.

HB 792, by Representatives Gooch, Cave, and Webb: AN ACT relating to coal mining.

HR 111, by Representative Vincent: A RESOLUTION adjourning the House of Representatives in honor of Stephanie Jackson.

HCR 112, by Representatives Weaver, Lee, L. Belcher, Cornett, Crall, Haydon, Stacy, Thompson, Westrom, Heleringer, Jenkins, Baugh, R. Adams, Hoffman, Burch, Wilkey, Lindsay, L. Clark, Worthington, A. Arnold, Rader, Ford, Walton, Siler, Moberly, C. Belcher, Cherry, Thomas, J. Arnold, Sims, and Scott: A CONCURRENT RESOLUTION urging Kentucky's Congressional delegation to pursue the placement of a brigade-size combat team at Fort Knox, Kentucky.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 778**

Appropriations and Revenue: **HB 767, HB 774, HB 776**

Banking and Insurance: **HB 765, HB 772**

Education: **HB 761, HB 779**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 777**

Health and Welfare: **HB 762, HB 771**

Judiciary: **HB 770, HCR 110**

Local Government: **HB 782**

Natural Resources and Environment: **HB 766**

Seniors, Military Affairs, and Public Safety: **HB 764, HB 780**

State Government: **HB 763, HB 773, HB 775, HB 784**

Transportation: **HB 768, HB 769, HB 781, HB 783**

House Floor: **HR 109**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 598, SB 128**

Report of Committees

The Committee on Education reported **HB 161,** with Committee Substitute and Committee Amendment attached thereto, **HB 254,** with Committee Substitute attached thereto, **HB 321,** with Committee Substitute attached thereto, **HB 347,** with Committee Substitute attached thereto, **HB 506,** with Committee Amendment attached thereto, **HB 631,** with Committee Substitute attached thereto, **HB 640,** with Committee Substitute and Committee Amendment attached thereto, and **HB 641** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 161, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall have the authority and responsibility to certify as a teacher of exceptional children/communication disorders a person who has:

(a) Completed an approved program of preparation that corresponds to the certificate;

(b) Achieved a passing score on an appropriate assessment as determined by the Education Professional Standards Board; and

(c) Completed other requirements for teacher certification as determined by the Education Professional Standards Board, in accordance with KRS Chapter 161.

(2) The Education Professional Standards Board shall issue two (2) levels of certification for teachers of exceptional children/communication disorders:

(a) Baccalaureate level certification shall be issued to a person who has completed an approved program of preparation leading to a bachelor's degree in speech-language pathology, and completed the other requirements specified in subsection (1) of this section; and

(b) Master's level certification shall be issued to a person who has completed an approved program of preparation leading to a master's degree in speech-language pathology, and completed the other requirements specified in subsection (1) of this section.

(3) A certificate for teachers of exceptional children/communication disorders shall be issued for a five (5) year period and shall be renewed for subsequent five (5) year periods upon completion of certification renewal requirements as

determined by the Education Professional Standards Board.

(4) A person holding licensure through the Kentucky Board of Speech-Language Pathology and Audiology as a speech-language pathologist or speech-language pathology assistant working in a public school on the effective date of this Act shall be issued a provisional certificate as a teacher of exceptional children/communication disorders, and shall be allowed to continue to work in public schools until the Education Professional Standards Board has promulgated administrative regulations specifying the requirements for certification.

Section 2. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections (3) through (5) of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

(a) The application contains documentation of all education and work experience;

(b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

(c) The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution; and

(d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular provisional certificate.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

(3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.

(6) A teacher certified under subsections (2) to (5) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

(7) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students***, including students who have speech and language disorders***:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under KRS 161.030.

Section 3. KRS 334A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Speech-Language Pathology and Audiology;

(2) "Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;

(3) "Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or any similar titles or descriptions;

(4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation consultation, measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, instruction, and research of persons suffering or suspected of suffering from conditions or disorders affecting speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies shall be considered to be the practice of speech-language pathology;

(5) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," or any similar titles or descriptions of service;

(6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related

to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, auditory training, or speech reading; ***and***

(7) "Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide improved health care to the public.

[~~(8) "Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech pathology services provided without appropriate supervision, or outside the public school system shall be deemed to be the unlicensed practice of speech pathology and shall subject the offending party to penalties established pursuant to KRS 334A.990.~~

~~(9) "Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor.~~

~~(a) If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:~~

~~1. Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;~~

~~2. Follow documented treatment plans or protocols as prescribed by the supervisor;~~

~~3. Document student progress toward meeting established objectives as stated in the treatment plan;~~

~~4. Provide direct treatment assistance to identified students under the supervision of the supervisor;~~

~~5. Assist with clerical and other related duties as directed by the supervisor;~~

~~6. Report to the supervisor about the treatment plan based on a student's performance;~~

~~7. Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;~~

~~8. Perform simple checks and maintenance of equipment;~~

~~9. Participate with the supervisor in research projects, inservice training, and public relations programs;~~

~~10. Assist in the development and maintenance of an appropriate schedule for service delivery;~~

~~11. Assist in implementing collaborative activities with other professionals; and~~

~~12. Assist in administering tests for diagnostic evaluations and progress monitoring.~~

~~(b) The following activities shall be outside the scope of practice of the speech-language pathology assistant:~~

~~1. Performing any activity which violates the code of ethics promulgated by the board by administrative regulation;~~

~~2. Interpreting test results, or performing diagnostic evaluations without supervision;~~

~~3. Participating in parent conferences, case conferences, or any interdisciplinary team without consultation with, or in the presence of, the supervisor;~~

~~4. Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;~~

~~5. Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;~~

~~6. Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;~~

~~7. Signing any due process document without the co-signature of the supervisor;~~

~~8. Selecting or discharging students;~~

~~9. Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;~~

~~10. Making referrals for additional services; and~~

~~11. Representing themselves as something other than a speech-language pathology assistant.~~

~~(10) "Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation.~~]

Section 4. KRS 334A.030 is amended to read as follows:

(1) Licensure shall be granted as a speech-language pathologist[~~, speech-language pathology assistant,~~] or audiologist independently. A person may be licensed in more than one (1) area if he meets the respective qualifications.

(2) No person shall practice or represent himself as a speech-language pathologist[~~, speech-language pathology assistant,~~] or audiologist in this state unless he is licensed in accordance with the provisions of this law.

[~~(3) A licensed speech-language pathology assistant employed by a public school shall receive the same salary and benefits available to certified teachers with Rank III and the corresponding years of experience.~~]

Section 5. KRS 334A.035 is amended to read as follows:

[~~(1)~~]A person who has a master's degree in the area of speech-language pathology or audiology or substantive equivalent course work as defined by the board's administrative regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication, the experience being obtained with a training institution or in one (1) of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience deemed necessary by the board. This postgraduate professional experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license, if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology. A person with interim licensure shall make every effort to take and pass an examination approved by the board. Upon completion of postgraduate professional experience deemed necessary by the board, the speech-language pathologist or audiologist shall make immediate application to the board for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

[~~(2) A person who has a baccalaureate degree in the area of speech-language pathology as defined by administrative regulation and who does not hold a valid and current credential as a speech-hearing specialist issued by the Department of Education, shall apply for an interim license as a speech-language pathology assistant during the time that person is completing their professional experience as established by the board by administrative regulation. This professional experience shall be completed under the supervision of an appropriately qualified supervisor. Upon completion of the professional experience, the speech-language pathology assistant shall make immediate application to the board for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.~~

~~(3) In order to regulate the quality of professional service to children in the public schools of the Commonwealth, any speech-language pathologist employed by the public schools shall apply for and maintain appropriate licensure until the time the Kentucky Education Professional Standards Board promulgates an administrative regulation requiring speech-language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b).~~]

Section 6. KRS 334A.060 is amended to read as follows:

(1)[~~ The board may waive the examination and educational requirements for those applicants for licensure as a speech-language pathology assistant who hold a valid and current credential as a speech and hearing specialist issued by the Education Professional Standards Board or graduate with a baccalaureate degree in the area of speech-language pathology as defined by the board prior to December 31, 1994. The authority of the board to grant licensure under these circumstances shall end on March 1, 1995.~~

~~(2)~~] The board may waive the examination and grant a license to applicants who present proof of current licensure in a state which has standards that are at least equivalent to those of this state.

(2)[~~(3)~~]The board may waive the examination and grant a license to those who hold the Certificate of Clinical Competence of the American Speech and Hearing Association in the area for which they are applying for licensure.

Section 7. KRS 334A.160 is amended to read as follows:

The amount of fees prescribed in connection with a license as a speech-language pathologist[~~, speech-language pathology assistant,~~] or audiologist shall be as follows:

(1) The initial license fee for licensure as a speech-language pathologist or an audiologist shall not exceed one hundred dollars ($100);

(2) The delinquency fee for all credentials shall not exceed twenty dollars ($20);

(3) The application fee for all credentials shall not exceed fifty dollars ($50);

(4) The inactive license fee for all credentials shall not exceed ten dollars ($10); ***and***

(5)[~~ The speech-language pathology assistant license fee shall not exceed seventy-five dollars ($75); and~~

~~(6)~~] The interim license fee shall not exceed seventy-five dollars ($75).

Section 8. KRS 334A.170 is amended to read as follows:

(1) Each licensed speech-language pathologist[~~, speech-language pathology assistant,~~] or audiologist shall annually, on or before January 30, pay to the board a renewal fee not to exceed seventy-five dollars ($75) for a renewal of his license. A

thirty (30) day grace period shall be allowed after January 30, during which time licenses may be renewed on payment of a renewal fee plus grace period fee which combined shall not exceed ninety dollars ($90). After expiration of the grace period, the board may renew each license upon payment of a renewal fee plus a delinquency fee which combined shall not exceed one hundred twenty-five dollars ($125). No person who applies for renewal, whose license has expired, shall be required to submit to any examination as a condition to renewal, if the renewal application is made within five (5) years from the date of expiration.

(2) A suspended license is subject to expiration and shall be renewed as provided in this chapter, but the renewal shall not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order of judgment by which the license was suspended. A license revoked on disciplinary grounds shall be subject to expiration as provided in this chapter, but it shall not be renewed. If it is reinstated after its expiration, the licensee, as a condition of reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last preceding regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

(3) A person who fails to renew his license within the five (5) years after its expiration may not renew it, and it shall not be restored, reissued, or reinstated thereafter. The person may apply for and obtain a new license if he meets the requirements of this chapter.

(4) A person applying for renewal of licensure shall show evidence of completion of continuing professional education in speech-language pathology or audiology as prescribed by the board by administrative regulation.

Section 9. KRS 334A.190 is repealed, reenacted as a new section of KRS Chapter 157, and amended to read as follows:

The caseload~~[limitations]~~ for ***teachers of exceptional children/communication disorders***~~[speech-language pathologists]~~ in the public schools shall ***not exceed sixty-five (65) pupils***~~[be as follows:~~

~~(1) The individual direct service caseload of a speech-language pathologist in the public schools shall not exceed the following:~~

~~(a) Seventy-five (75) pupils for the school year 1997-1998;~~

~~(b) Seventy (70) pupils for the school year 1998-1999;~~

~~(c) Sixty-five (65) pupils for the school year 1999-2000 and thereafter;~~

~~(2) The total caseload of speech-language pathologists who supervise assistants may be increased by no more than one-half (1/2) of the amount set forth in subsection (1) of this section for each speech-language pathology assistant working under their supervision]~~.

Section 10. KRS 334A.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter shall be guilty of a misdemeanor punishable by imprisonment in the county jail not exceeding six (6) months, or by a fine not exceeding one thousand dollars ($1,000) or by both.

(2) When any person other than a licensed speech-language pathologist~~[, speech-language pathology assistant,]~~ or audiologist has engaged in any act or practice which constitutes an offense against this chapter, the Franklin Circuit Court, on application of the board, may issue an injunction or other appropriate order restraining the conduct.

Section 11. The following KRS section is repealed:

334A.033 License for speech-language pathology assistant -- Requirements for licensure.

The Committee Substitute No. 1 to **HB 161** is as follows:

HB 161, AN ACT relating to teacher certification.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall have the authority and responsibility to certify as a teacher of exceptional children/communication disorders, an individual who has:

(a) Completed an approved program of preparation that corresponds to the certificate;

(b) Achieved a passing score on an appropriate assessment as determined by the Education Professional Standards Board;

(c) Fulfilled other requirements for teacher certification as determined by the Education Professional Standards Board, in accordance with KRS Chapter 161 and administrative regulations promulgated thereunder; and

(d) Completed the requirements set forth in subsection (2) of this section.

(2) The Education Professional Standards Board shall issue two (2) levels of certification for teachers of exceptional children/communication disorders:

(a) Baccalaureate level certification shall be issued to a person who has:

1. Completed an approved program of preparation leading to a bachelor's degree in speech-language pathology;

2. Been granted licensure as a speech-language pathology assistant from the Kentucky Board of Speech-Language Pathology and Audiology, under KRS Chapter 334A; and

3. Completed the other requirements set forth in subsection (1) of this section; and

(b) Master's level certification shall be issued to a person who has:

1. Completed an approved program of preparation leading to a master's degree in speech-language pathology; and

2. Completed the other requirements specified in subsection (1) of this section.

(3) A person holding licensure through the Kentucky Board of Speech-Language Pathology and Audiology as a speech-language pathology assistant, but not certified as a teacher of exceptional children/communication disorders, may:

(a) Continue to work in the public schools as a classified employee under the provisions of KRS Chapter 334A and administrative regulations promulgated by the Kentucky Board of Speech-Language Pathology and Audiology; or

(b) Pursue certification as a baccalaureate level teacher of exceptional children/communication disorders while working as a speech-language pathology assistant.

(4) Candidates for certification as a teacher of exceptional children/communication disorders shall participate in the teacher internship program under KRS 161.030.

(5) A bachelor's level teacher of exceptional children/communication disorders shall work under requirements for speech-language pathology assistants set forth in KRS Chapter 334A.

(6) The Education Professional Standards Board shall develop a policy through the promulgation of administrative regulations by June 30, 2001, to permit a speech-language pathology assistant with two (2) years or more of successful professional experience pursuing certification as a baccalaureate level teacher of exceptional children to:

(a) Substitute prior professional experience for student teaching requirements; and

(b) Substitute prior professional experience for beginning teacher internship requirements.

(7) A teacher of exceptional children/communication disorders shall receive salary and benefits, including membership in the Teachers' Retirement System, commensurate with their education, certification, and experience as prescribed by law. Years of experience as a speech-language pathology assistant shall be included in the calculation of all benefits, including membership in the Teachers' Retirement System, for individuals with baccalaureate level certification as a teacher of exceptional children/communication disorders.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

A public postsecondary education institution with a degree program in speech-language pathology and a teacher education program, under the direction of the Council on Postsecondary Education, and in consultation with the Education Professional Standards Board and the Kentucky Board of Speech-Language Pathology and Audiology, shall:

(1) Align the programs of studies for speech-language pathology and teacher education to permit a student to successfully prepare for licensure as a speech-language pathology assistant and certification as a bachelor's level teacher of exceptional children/communication disorders;

(2) Increase the number of students accepted into programs leading to licensure as a speech-language pathologist or speech-language pathology assistant and certification as a teacher of exceptional children/communication disorders, subject to:

(a) Requirements for program certification by national certifying bodies, including, but not limited to, student to faculty ratios;

(b) The strategic plans of the Council on Postsecondary Education and the postsecondary education institution; and

(c) The budgetary considerations of the postsecondary education institution.

(3) Provide expanded opportunities for speech-language pathology assistants working in public schools to pursue licensure as a speech-language pathologist and certification as a teacher of exceptional children/communication disorders, which may include:

(a) Expanded opportunities for admission to on-campus programs;

(b) The development and expansion of distance learning opportunities in collaboration with the Kentucky Commonwealth Virtual University; and

(c) Admissions requirements that take into account successful professional experience as a speech-language

pathology assistant in lieu of other admissions requirements.

Section 3. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The Department of Education shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section***, except as provided in paragraph (g) of this subsection***. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the Department of Education from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the Department of Education for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the Department of Education. Priority shall be given to resource teachers in the following order***, except as provided in paragraph (g) of this subsection***:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. Teachers in the same school;
4. Teachers in the same district; and
5. Teachers in an adjacent school district.

(g) ***1. The resource teacher for an individual pursuing initial certification as a baccalaureate level teacher of exceptional children/communication disorders shall be a master's level teacher of exceptional children/communication disorders, if one is available.***

2. If a master's level teacher of exceptional children/communication disorders is not available, the Education Professional Standards Board may allow a licensed speech-language pathologist to serve on the beginning teacher committee in lieu of a resource teacher.

(h) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the chief state school officer shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board. The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.

(10) The Education Professional Standards Board shall approve the curricula of any standard college or university, or of any department thereof, for the training of teachers, and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 4. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections (3) through (5) of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the secondary level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

(a) The application contains documentation of all education and work experience;

(b) The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

(c) The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four (4) point scale from a nationally or regionally accredited postsecondary institution; and

(d) The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of KRS 161.030. After successful completion of the internship, the candidate shall receive a regular provisional certificate.

An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional certificate, and subject to certificate renewal requirements the same as any other teacher with a regular provisional certificate.

(3) Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

(a) Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four (4) point scale or, upon approval by the Education Professional Standards Board, at least a grade point average of two (2) on a four (4) point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

(b) Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

(c) Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

(d) Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to KRS 161.030.

(e) The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(4) Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

(a) A master's degree or doctoral degree in the academic subject area for which certification is sought;

(b) A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and

(c) Successful completion of the teacher internship requirement imposed under KRS 161.030.

(5) Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.

(6) A teacher certified under subsections (2) to (5) of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

(7) Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students ***including students who have speech and language disorders***:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under KRS 161.030.

Section 5. KRS 334A.020 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Board" means the Kentucky Board of Speech-Language Pathology and Audiology;

(2) "Person" means any individual, organization, or corporate body, except that only individuals can be licensed under this chapter;

(3) "Speech-language pathologist" means one who practices speech-language pathology. A speech-language pathologist may describe himself to the public by any title or description of services incorporating the words "speech-language pathologist," "speech-language pathology," "speech-language therapy," "speech-language correction," "speech-language correctionist," "speech-language therapist," "speech clinic," "speech clinician," "language pathologist," "language pathology," "language therapist," "logopedics," "logopedist," "communicology," "communicologist," "aphasiologist," "voice therapy," "voice therapist," "voice pathology," "voice pathologist," "phoniatrist," "communication disorders," or any similar titles or descriptions;

(4) "The practice of speech pathology" means the application of principles, methods, and procedures for the measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, evaluation, consultation, remediation, counseling, instruction, and research related to the development and disorders of speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies for the purpose of designing and implementing programs for the amelioration of these disorders and conditions. Any representation to the public by title or by description of services, methods, or procedures for the evaluation, counseling, remediation consultation, measurement, testing, audiometric screening, identification, appraisal, determination of prognosis, instruction, and research of persons suffering or suspected of suffering from conditions or disorders affecting speech, voice, verbal and written language, cognition/communication, or oral and pharyngeal sensori-motor competencies shall be considered to be the practice of speech-language pathology;

(5) "Audiologist" is defined as one who practices audiology. An audiologist may describe himself to the public by any title or description of services incorporating the words "audiologist," "audiology," "audiological," "hearing center," "hearing clinic," "hearing clinician," "hearing therapist," "audiometry," "audiometrist," "audiometrics," "otometry," "otometrist," or any similar titles or descriptions of service;

(6) "The practice of audiology" means the application of principles, methods, and procedures of measurement, testing, appraisal, prediction, consultation, counseling, and instruction related to hearing and disorders of hearing for the purpose of modifying communicative disorders involving speech, language, auditory behavior, or other aberrant behavior related to hearing loss; planning, directing, conducting, or participating in identification and hearing conservation programs; and habilitative and rehabilitative programs, including hearing aid recommendations and evaluation, auditory training, or speech reading;

(7) "Continuing professional education" in speech-language pathology and audiology consists of planned learning experiences beyond a basic educational program leading to a degree. These experiences are designed to promote knowledge, skills, and attitudes of speech-language pathology and audiology practitioners to enable them to provide improved health care to the public.

(8) "Speech-language pathology assistant" means one who assists in the practice of speech-language pathology only under the

supervision and direction of an appropriately qualified supervisor and only within the public school system in the Commonwealth. Any speech pathology services provided without appropriate supervision, or outside the public school system shall be deemed to be the unlicensed practice of speech pathology and shall subject the offending party to penalties established pursuant to KRS 334A.990.

(9) "Assisting in the practice of speech pathology" means the provision of certain specific components of a speech or language service program provided by a speech-language pathology assistant under the supervision and direction of an appropriately qualified supervisor.

(a) If the training, supervision, documentation, and planning are appropriate, the following tasks may be delegated to a speech-language pathology assistant:

1. Conduct speech-language and hearing screenings without interpretation following specified screening protocols developed by a speech-language pathologist and audiologist, respectively;

2. Follow documented treatment plans or protocols as prescribed by the supervisor;

3. Document student progress toward meeting established objectives as stated in the treatment plan;

4. Provide direct treatment assistance to identified students under the supervision of the supervisor;

5. Assist with clerical and other related duties as directed by the supervisor;

6. Report to the supervisor about the treatment plan based on a student's performance;

7. Schedule activities, prepare charts, records, graphs, or otherwise display data. This shall not include report generation;

8. Perform simple checks and maintenance of equipment;

9. Participate with the supervisor in research projects, inservice training, and public relations programs;

10. Assist in the development and maintenance of an appropriate schedule for service delivery;

11. Assist in implementing collaborative activities with other professionals; ~~[and]~~

12. Assist in administering tests for diagnostic evaluations and progress monitoring***; and***

13. Participate in parent conferences, case conferences, or any interdisciplinary team in consultation with, or in the presence of, the supervisor.

(b) The following activities shall be outside the scope of practice of the speech-language pathology assistant:

1. Performing any activity which violates the code of ethics promulgated by the board by administrative regulation;

2. Interpreting test results, or performing diagnostic evaluations without supervision;

3.~~[Participating in parent conferences, case conferences, or any interdisciplinary team without consultation with, or in the presence of, the supervisor;~~

~~4.]~~ Conducting client or family counseling without the recommendation, guidance, and approval of the supervisor;

4.~~[5.]~~ Writing, developing, or modifying a student's individualized treatment plan in any way without the recommendation, guidance, and approval of the supervisor;

5.~~[6.]~~ Treating students without following the individualized treatment plan prepared by the supervisor or without access to supervision;

6.~~[7.]~~ Signing any due process document without the co-signature of the supervisor;

7.~~[8.]~~ Selecting or discharging students;

8.~~[9.]~~ Disclosing clinical or confidential information, either orally or in writing, to anyone not designated by the supervisor;

9.~~[10.]~~ Making referrals for additional services; and

10.~~[11.]~~ Representing themselves as something other than a speech-language pathology assistant.

(10) "Supervisor" means a person who holds a Kentucky license as a speech-language pathologist or who holds Education Professional Standards Board certification as a teacher of exceptional children in the areas of speech and communication disorders as established by administrative regulation.

Section 6. KRS 334A.035 is amended to read as follows:

(1) A person who has a master's degree in the area of speech-language pathology or audiology or substantive equivalent course work as defined by the board's administrative regulations and who has completed supervised direct clinical practicum with individuals presenting a variety of disorders of communication, the experience being obtained with a training institution or in one (1) of its cooperating programs, shall apply for an interim license during the time that person is completing postgraduate professional experience deemed necessary by the board. This postgraduate professional

experience shall be completed under the supervision of a speech-language pathologist who holds a Kentucky license, if the applicant is seeking interim licensure in speech-language pathology, or under an audiologist who holds a Kentucky license, if the applicant is seeking interim licensure in audiology. A person with interim licensure shall make every effort to take and pass an examination approved by the board. Upon completion of postgraduate professional experience deemed necessary by the board, the speech-language pathologist or audiologist shall make immediate application to the board for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(2) A person who has a baccalaureate degree in the area of speech-language pathology as defined by administrative regulation and who does not hold a valid and current ***master's degree level*** credential as a speech-hearing specialist issued by the ***Education Professional Standards Board***[~~Department of Education~~], shall apply for an interim license as a speech-language pathology assistant during the time that person is completing their professional experience as established by the board by administrative regulation. This professional experience shall be completed under the supervision of an appropriately qualified supervisor. Upon completion of the professional experience, the speech-language pathology assistant shall make immediate application to the board for permanent licensure, if all requirements have been completed satisfactorily, or for renewal of the interim license at the discretion of the board. Failure to do so shall result in forfeiture of the interim license.

(3) In order to regulate the quality of professional service to children in the public schools of the Commonwealth, any speech-language pathologist employed by the public schools shall apply for and maintain appropriate licensure until the time the Kentucky Education Professional Standards Board promulgates an administrative regulation requiring speech-language pathologists to meet the requirements of KRS 334A.050(2)(a) and (b).

Section 7. KRS 334A.060 is amended to read as follows:

(1)[~~The board may waive the examination and educational requirements for those applicants for licensure as a speech-language pathology assistant who hold a valid and current credential as a speech and hearing specialist issued by the Education Professional Standards Board or graduate with a baccalaureate degree in the area of speech-language pathology as defined by the board prior to December 31, 1994. The authority of the board to grant licensure under these circumstances shall end on March 1, 1995.~~

~~(2)~~] The board may waive the examination and grant a license to applicants who present proof of current licensure in a state which has standards that are at least equivalent to those of this state.

(2)[~~(3)~~]The board may waive the examination and grant a license to those who hold the Certificate of Clinical Competence of the American Speech and Hearing Association in the area for which they are applying for licensure.

Section 8. KRS 334A.033 is amended to read as follows:

(1) The board may issue a license to practice as a speech-language pathology assistant under the following conditions:

- (a) The practice shall be limited to the public schools and shall be under the supervision of an appropriately qualified supervisor;
- (b) The requirements for supervision shall be set forth in administrative regulations promulgated by the board ***and shall include requirements that:***
  - ***1. A person holding an interim license as a speech-language pathology assistant shall receive no less than three (3) hours per week of documented direct supervision and three (3) hours per week of indirect supervision from an appropriate supervisor as determined by the board;***
  - ***2. A person holding a license as a speech-language pathology assistant with less than three (3) years of full-time experience shall receive no less than two (2) hours per week of documented direct supervision and two (2) hours per week of indirect supervision from an appropriate supervisor as determined by the board;***
  - ***3. A person holding a license as a speech-language pathology assistant with three (3) or more years of full-time experience shall receive no less than one (1) hour per week of documented direct supervision and one (1) hour per week of indirect supervision, unless, in the professional judgment of the supervisor, the ability of the speech-language pathology assistant requires a higher level of supervision in order to avoid compromising the quality of services provided to students; and***
  - ***4. Supervision shall be adjusted proportionally for less than full-time employment***;
- (c) An individual shall not supervise or be listed as the supervisor for more than two (2) speech-language pathology assistants; and
- (d) The supervisor shall delegate to the assistant the appropriate tasks pursuant to KRS 334A.020 and the supervisor and assistant shall work together to provide the appropriate services to all assigned pupils ***taking into account the severity and complexity of the needs of individual students and the respective workloads of the supervisor and assistant***. The maximum number of pupils served by each speech-language pathology assistant shall not exceed the direct service caseload of the speech-language pathologist as established in KRS 334A.190.

(2) To be eligible for licensure by the board as a speech-language pathology assistant, the applicant shall meet the following requirements:

(a) A baccalaureate degree in the area of speech-language pathology as defined by administrative regulation;

(b) Completion of postgraduate professional experience deemed appropriate by the board by administrative regulation; and

(c) List on the application the name of the appropriately qualified supervisor who has agreed to provide supervision as set forth by the board by administrative regulation.

Section 9. KRS 334A.190 is amended to read as follows:

(1) The caseload limitations for speech-language pathologists in the public schools shall *not exceed sixty-five (65) pupils.*~~[be as follows:~~

~~(1) The individual direct service caseload of a speech-language pathologist in the public schools shall not exceed the following:~~

~~(a) Seventy-five (75) pupils for the school year 1997-1998;~~

~~(b) Seventy (70) pupils for the school year 1998-1999;~~

~~(c) Sixty-five (65) pupils for the school year 1999-2000 and thereafter;]~~

(2) The total caseload of speech-language pathologists who supervise assistants may be increased by no more than one-half (1/2) of the amount set forth in subsection (1) of this section for each speech-language pathology assistant working under their supervision.

The Committee Amendment No. 1 Title to **HB 161** is as follows:

By amending the title to read as follows: "AN ACT relating to speech-language pathology."

HB 254, AN ACT relating to geography education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

(a) The decline in geographic literacy has been widely recognized;

(b) Geographic knowledge is essential to social, political, and environmental leadership potential and civic involvement; and

(c) Support should be given to local efforts to restore geography education to the school curriculum, train teachers, prepare teaching materials, and raise public awareness of the importance of geography education.

(2) The General Assembly establishes, on behalf of the citizens of the Commonwealth, a goal that the next generation of students in Kentucky will graduate with the geographic skills and knowledge that will guarantee their readiness to meet the economic, environmental, and civic challenges of the future.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Geographic Alliance Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education, Arts, and Humanities Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

(a) Three (3) representatives from postsecondary institutions;

(b) One (1) representative from the Council for Social Sciences;

(c) Six (6) representatives from elementary and secondary schools;

(d) One (1) representative of the Department of Education; and

(e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance with state procedures and policies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The functions of the board shall be to:

(1) Create and implement annually a plan to improve assessment, curriculums, outreach, and professional development related to geography education in Kentucky;

(2) Establish a competitive system for awarding grants for programs to encourage and support geography education;

(3) Seek and receive private support to fund state programs to encourage and support geography education;

(4) Prepare an annual report of its activities and annual plan, forward copies of the report to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on Postsecondary Education, and make copies available to citizens of the Commonwealth; and

(5) Make recommendations and seek changes through administrative regulations, legislation, and other means to promote geography education in Kentucky.

SECTION 4. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky geography education trust fund is established in the State Treasury to award grants for programs that encourage and support geography education in Kentucky. Funds appropriated by the General Assembly in each biennial budget for the purpose of supporting geography education shall be credited to the fund and invested until needed. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for geography education purposes as defined by the Kentucky Geographic Alliance Board.

(2) Money appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.

The Committee Substitute No. 1 to **HB 254** is as follows:

HB 254, AN ACT relating to geography education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The General Assembly hereby finds that:

  (a) The decline in geographic literacy has been widely recognized;

  (b) Geographic knowledge is essential to social, political, and environmental leadership potential and civic involvement; and

  (c) Support should be given to local efforts to restore geography education to the school curriculum, train teachers, prepare teaching materials, and raise public awareness of the importance of geography education.

(2) The General Assembly establishes, on behalf of the citizens of the Commonwealth, a goal that the next generation of students in Kentucky will graduate with the geographic skills and knowledge that will guarantee their readiness to meet the economic, environmental, and civic challenges of the future.

SECTION 2. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Geographic Education Board is established to provide leadership and planning for geography education for the population of Kentucky through the efforts of elementary, secondary, and postsecondary educators, government agencies, and public interests. The board shall be an independent agency and be attached to the Education, Arts, and Humanities Cabinet for administrative purposes.

(2) The twelve (12) member board shall be appointed to two (2) year terms, initially appointed by the Governor, and composed of the following members:

  (a) Three (3) representatives from postsecondary institutions;

  (b) One (1) representative from the Council for Social Sciences;

  (c) Six (6) representatives from elementary and secondary schools;

  (d) One (1) representative of the Department of Education; and

  (e) One (1) representative of the Council on Postsecondary Education.

(3) The board shall select from its membership a chair and establish bylaws, including bylaws governing board membership and length of terms. Upon expiration of the initial appointments and adoption of bylaws governing membership and length of terms by the board, the board shall be self-perpetuating, and the appointment and length of terms shall be made in accordance with the board's bylaws. Vacancies that occur before the expiration of the initial appointments shall be filled by the Governor for the remaining term of the vacancy.

(4) The board members shall receive no compensation but shall be reimbursed for actual expenses incurred in accordance

with state procedures and policies.

SECTION 3. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

The functions of the board shall be to:

(1) Create an annual plan to improve assessment, curriculums, outreach, and professional development related to geography education in Kentucky;

(2) Establish a competitive system for awarding grants for programs to encourage and support geography education;

(3) Seek and receive private support to fund state programs to encourage and support geography education;

(4) Prepare an annual report of its activities and annual plan, forward copies of the report to the Governor, the Legislative Research Commission, the Kentucky Board of Education, and the Council on Postsecondary Education, and make copies available to citizens of the Commonwealth; and

(5) Make recommendations and seek changes through administrative regulations, legislation, and other means to promote geography education in Kentucky.

SECTION 4. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky geography education trust fund is established in the State Treasury to award grants for programs that encourage and support geography education in Kentucky. Funds appropriated by the General Assembly in each biennial budget for the purpose of supporting geography education shall be credited to the fund and invested until needed. The fund may also receive gifts, grants from private and public sources, and federal funds. All money credited to the fund, including interest earned on money in the fund, shall be retained in the fund for reinvestment and used for geography education purposes as defined by the Kentucky Geographic Education Board.

(2) Money appropriated to the fund shall not lapse at the end of a fiscal year or a biennium.

HB 321, AN ACT relating to students with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) As used in Sections 1 to 3 of this Act unless the context requires otherwise, "disability" means the same as the definition given in KRS 344.010.

(2) Each postsecondary education institution with residence facilities shall have housing and security policies that assure students with a permanent or temporary disability a safe environment in which to live and study. The policies shall be visibly posted in each residence facility, made available on campus computer networks to which students have access, and included in all student housing information. The policies shall include, but not be limited to:

  (a) An appeals process that may be used by students, their parents, or their advocates when they have reason to believe that the institution's policy or the student's housing assignment does not accommodate the student's disability or endangers the student's safety. The appeals process shall mandate that an independent body be assigned to hear the appeal and shall not include representatives of the original authority or department that made the housing assignment that is being appealed; and

  (b) A current list updated at the beginning of each semester with the name of each student with a disability, whether permanent or temporary, and his or her residency assignment that shall be given to the campus housing and security authorities to be used in an emergency to identify, locate, and act to help, protect, and if necessary, rescue the student with a disability.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any person may be civilly liable for any consequent damages resulting from a violation of Section 1 of this Act. Notwithstanding the provisions of KRS 44.072 to 44.073, sovereign immunity for the postsecondary education institution or its agents is waived to the extent of the liability.

The Committee Substitute No. 1 to **HB 321** is as follows:

HB 321, AN ACT relating to students with disabilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context requires otherwise, "disability" has the same meaning as the definition given in KRS 344.010.

(2) The Council on Postsecondary Education shall develop guidelines for the adoption of policies by postsecondary education institutions with residence facilities that provide students with a disability a safe environment in which to live

and study.

(3) Each institution shall develop a housing and security policy in compliance with the council's guidelines that shall be visibly posted in each residence facility, made available on campus computer networks to which students have access, and included in all student housing information. The policies shall include, but not be limited to, an appeals process that may be used by students, their parents, or their advocates when they have reason to believe that the institution's policy or the student's housing assignment does not reasonably accommodate the student's disability or endangers the student's safety or health. The appeals process shall mandate that the body assigned to hear the appeal shall not include representatives of the original department that made the housing assignment that is being appealed.

(4) Each institution shall prepare at the beginning of each semester a list with the name and residency assignment of each student with a disability, as reported to the institution by the student or the student's parent or advocate, as appropriate. The list shall be given to the campus housing and security authorities to be used in an emergency to identify, locate, and act to help, protect, and if necessary, rescue the student with a disability.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Any person who knowingly violates the provisions of Section 1 of this Act, or who knowingly induces another, directly or indirectly, to violate the provisions of Section 1 of this Act, shall be fined not less than five hundred dollars ($500), nor more than one thousand five hundred dollars ($1,500).

HB 347, AN ACT relating to public school calendars.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in of subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) ***(a)*** In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting

professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

The Committee Substitute No. 1 to **HB 347** is as follows:

HB 347, AN ACT relating to public school calendars.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of KRS 156.095.

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
2. Local disaster which would endanger the health or safety of children; and
3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in of subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) ***(a)*** In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(b) All schools shall be closed on the third Monday of January in observance of the birthday of Martin Luther King, Jr. Districts may:

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

Section 2. KRS 118.025 is amended to read as follows:

(1) Except as otherwise provided by law, voting in all elections shall be by secret ballot on voting machines.

(2) The general laws applying to regular, special, primary, and runoff primary elections shall apply to elections conducted with the use of voting machines, and all provisions of the general laws applying to the custody of ballot boxes shall apply, as far as applicable, to the custody of the voting machine.

(3) Primary elections for the nomination of candidates or slates of candidates to be voted for at the next regular election shall be held on the first Tuesday after the fourth Monday in May of each year.

(4) A runoff primary shall be held thirty-five (35) days after the date of the May primary, if it shall be necessary, pursuant to KRS 118.245, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. However, if either a primary election is contested or a recount of the votes cast in a primary is requested, a runoff primary shall be held on the first Tuesday following the thirty-fifth day following the conclusion of any contest proceeding or recount, if it shall be necessary, unless that date falls on a holiday; in that case, a runoff primary shall be held on the succeeding Tuesday. The election of all officers of all governmental units shall be held on the first Tuesday after the first Monday in November.

(5) If the law authorizes the calling of a special election on a day other than the day of the regular election in November, the election shall be held on a Tuesday.

(6) If the law requires that a special election be held within a period of time during which the voting machines must be locked

as required by KRS 117.295, the special election shall be held on the fourth Tuesday following the expiration of the period during which the voting machines are locked.

[~~(7) All public schools shall be closed on the day of any regular election.~~]

Section 3. KRS 158.060 is amended to read as follows:

(1) Twenty (20) school days, or days in which teachers are actually employed in the schoolroom, shall constitute a school month in the common schools.[~~ School shall be closed on the day of a regular election. The legal holiday designated by the Kentucky Board of Education to be observed may include the first Tuesday after the first Monday in November of each year and shall be counted as a school day.~~]

(2) Each full-time teacher shall be provided with a duty-free lunch period each day during the regularly scheduled student lunch period. The duty-free lunch period shall be not less than the length of the lunch period specified in the school calendar approved by the chief state school officer. A full-time teacher may be assigned to lunch room duty during the regularly scheduled student lunch period only for an amount of time equal to the noninstructional time in excess of fifty-five (55) minutes included in the teacher's daily schedule. The calculation of noninstructional time shall not include the teacher's duty-free lunch period, the time teachers are required to be at school prior to the start of the student's instructional day, or the time teachers are required to remain at school after the students are dismissed.

(3) Except for children with disabilities and children attending the primary school program who may attend a program of less than six (6) hours per day under policy adopted by the local school district board of education and approved by the commissioner of education and children attending a school district where the local board has approved a schedule that provides at least the equivalent of six (6) hours of daily instruction during the school year, a minimum of six (6) hours of actual school work shall constitute a school day. Kindergarten programs may be operated for less than six (6) hours without state board approval. The Kentucky Board of Education, upon recommendation of the chief state school officer, shall develop and approve regulations governing make up by school districts of whole days missed due to emergencies, or partial days missed as a result of shortening regularly scheduled school days due to emergencies.

(4) Teachers shall be provided additional time for nonteaching activities. The nonteaching time shall be used to provide teachers opportunities for professional development activities as provided in KRS 156.095, instructional planning, school-based decision making as provided in KRS 160.345, curriculum development, and outreach activities involving their students' families and the community.

HB 506, AN ACT relating to elementary and secondary schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.175 is amended to read as follows:

(1) As a continuation of the policy of teaching our country's history and as an affirmation of the freedom of religion in this country, the board of education of a local school district may authorize the recitation of the traditional Lord's prayer and the pledge of allegiance to the flag in public elementary schools. Pupil participation in the recitation of the prayer and pledge of allegiance shall be voluntary. Pupils shall be reminded that this Lord's prayer is the prayer our pilgrim fathers recited when they came to this country in their search for freedom. Pupils shall be informed that these exercises are not meant to influence an individual's personal religious beliefs in any manner. The exercises shall be conducted so that pupils shall learn of our great freedoms, including the freedom of religion symbolized by the recitation of the Lord's prayer.

(2) The board of education of each school district shall establish a policy and develop procedures whereby the pupils in each elementary and secondary school may participate in the pledge of allegiance to the flag of the United States at the commencement of each school day.

(3) The Kentucky Board of Education shall develop a program of instruction relating to the flag of the United States of America and the flag of Kentucky, including instruction in etiquette, the correct use and display of the flag, and other patriotic exercises as may be related. This program of instruction shall be provided to each public school for use in its course of instruction. The program of instruction, at a minimum, shall include the provisions of 36 U.S.C. sec. 170 to 177.

(4)[~~ The policy shall include a plan for incorporating instruction concerning the proper display of and respect for the flag of the United States and the flag of Kentucky into the social studies curriculum.~~

~~(3)~~] The board of education of each local school district may purchase or otherwise acquire and provide for display in each classroom copies of the Declaration of Independence, the Gettysburg Address, and other documents the local board deems significant to the history of Kentucky and the United States.

(5)[~~(4)~~]At the commencement of the first class of each day in all public schools, the teacher in charge of the room may announce that a moment of silence or reflection not to exceed one (1) minute in duration shall be observed.

The Committee Amendment No. 1 to **HB 506** is as follows:

On page 1, line 18, by deleting "***and the flag of Kentucky***"; and

On page 1, line 22, by deleting "***36 U.S.C. sec. 170 to 177***", and inserting "***4 U.S.C. secs. 1 to 3, 4 U.S.C. secs. 5 to 9, and 18 U.S.C. sec. 700***" in lieu thereof.

HB 631, AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the ***Kentucky Community and Technical College System***[~~state fire marshal's office in the Department of Housing, Buildings and Construction~~].

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) ***representative of the Kentucky Industrial Response Committee***[~~teacher or administrator representing the fire and rescue training service of the Kentucky Community and Technical College System~~];

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 2. KRS 95A.040 is amended to read as follows:

(1) The commission shall[~~ have authority to~~] make full and complete studies, recommendations and reports to the Governor, ***the Kentucky Community and Technical College System,*** and the Legislature for the purpose of ***establishing***:

(a) [~~Suggesting ~~]Minimum standards and education of fire protection personnel appointed to positions in municipal fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation and other allied fields;

(b) [~~Suggesting ~~]Basic minimum courses of training for fire protection personnel;

(c) [~~Suggesting ~~]Procedure for the certification of fire protection personnel and the certification of fire protection instructors.

(2) The commission shall have the authority to:

(a) Certify fire protection training and education programs as having attained the minimum required standards suggested by such commission;

(b) Certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;

(c) Direct research in the field of fire protection and accept gifts and grants for such purposes;

(d) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(3) The commission shall have authority to receive and to the extent required by federal law to disburse all grants and funds from the federal government for the purpose of fire protection personnel training and education. Except as otherwise provided by law, the ***commission***[~~Department of Insurance~~] shall administer all state programs and all state and federally funded grant programs related to fire protection personnel training and education.

Section 3. KRS 95A.050 is amended to read as follows:

In carrying out its duties and responsibilities, the commission shall have the following additional duties:

(1) To meet at times and places in the State of Kentucky it deems proper. Meetings shall be called by the chairman upon his own motion, or upon the written request of a majority of the members;

(2) To contract with other agencies, public or private, or persons, it deems necessary for the rendition and affording of the services, facilities, studies, and reports it may require to cooperate with city, county, state, and federal agencies in training programs; and

(3) To ***promulgate***[~~recommend to the commissioner of housing, buildings and construction for promulgation~~] reasonable ***administrative*** regulations relating to fire protection personnel.

Section 4. KRS 95A.240 is amended to read as follows:

(1) The commission shall administer the fund pursuant to the provisions of KRS 95A.200 to 95A.300 and may issue such reasonable rules and regulations as, in its discretion, will facilitate the administration of the fund and further the purposes of KRS 95A.200 to 95A.300.

(2) The commission shall determine which local governments are eligible to share in the fund and may withhold or terminate payments to any local government that does not comply with the requirements of KRS 95A.200 to 95A.300 or the rules and regulations issued by the commission thereunder.

(3) The commission shall, from the moneys appropriated to and accruing to the fund from any source, reimburse the ***Kentucky Community and Technical College System***[~~Department of Housing, Buildings and Construction~~] for salaries and other costs of administering the fund, including, but not limited to the costs of commission operations. The amount of reimbursement for any given year shall be determined by the commission and shall not exceed ***ten***[~~five~~] percent ***(10%)***[~~(5%)~~] of the total appropriation to the fund for that year.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot six thousand five hundred dollars ($6,500) annually to each qualifying department, and beginning on July 1 of 1999, the commission shall allot seven thousand five hundred dollars ($7,500) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations.

No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted *five*[~~two~~] hundred thousand dollars *($500,000)*[~~($200,000)~~] of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of *five*[~~two~~] hundred thousand dollars *($500,000)*[~~($200,000)~~]. Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the department for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed ***ten***[~~five~~] percent ***(10%)***[~~(5%)~~] of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

(a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

(b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

(c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

(d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

(e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

(f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

(g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 95A.270 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the commission, shall draw warrants as specified on the State Treasurer for the amount of the fund due each eligible local government or the ***Kentucky Community and Technical College System***[~~Department of Housing, Buildings and Construction~~]. Checks shall be issued by the State Treasurer and transmitted to the commission for distribution to the proper officials of participating local governments which have complied with the provisions of KRS 95A.200 to 95A.300. Beginning January 1, 1981, and on the first day of each month thereafter, the share of each eligible local unit shall be distributed from the fund.

Section 7. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) The provisions of subsection (1) of this section shall not apply to amounts due the ***Kentucky Community and Technical College System***[~~Department of Housing, Buildings and Construction~~] pursuant to KRS 95A.240.

(3) Funds appropriated by the General Assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 42.190, 95A.220 and 136.392 shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 95A.200 to 95A.300.

SECTION 8. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Community and Technical College System shall conduct or contract for the delivery of all certificate, diploma, or associate degree programs approved by the commission.

(2) The Kentucky Community and Technical College System shall provide the fiscal and administrative support requested by the commission, through the Chancellor's Office of Technical Education and Workforce Development.

(3) The commission shall ratify all personnel decisions necessary to perform the functions required by the commission, subject to budget appropriation limits.

(4) The commission shall establish the proposed budget for all administrative, fire rescue training functions, and other activities in which the commission is authorized to engage, including, but not limited to salaries, equipment, maintenance, utilities, insurance, and other matters. The commission shall submit the budget to the Kentucky Community and Technical College System, which shall submit the budget, through appropriate channels, for inclusion in the executive branch budget. The Kentucky Community and Technical College System shall not change the proposed budget which is submitted to it, but may comment thereon in writing, with copies sent to the commission, and to all agencies who receive the proposed budget during the budget process.

Section 9. KRS 75.400 is amended to read as follows:

As used in KRS 75.400 to 75.460, unless the context requires otherwise:

(1) "Commission" means the Commission on Fire Protection Personnel Standards and Education, attached to the ***Kentucky Community and Technical College System***[~~state fire marshal's office in the Department of Housing, Buildings and Construction~~].

(2) "Fire department" includes all of the officers, firefighters, and clerical and maintenance employees, whether paid or volunteer.

(3) "Full-time paid firefighter" means an individual who receives a minimum salary of eight thousand dollars ($8,000) annually, and who works a minimum of two thousand and eighty (2,080) hours per year as an employee of a fire department recognized by the fire commission.

(4) "Paid fire department" means a fire department recognized by the commission, of which at least fifty percent (50%) of its firefighters are full-time paid firefighters.

(5) "Volunteer fire department" means a fire department with a minimum of twelve (12) members and a chief, at least one (1) operational fire apparatus or one (1) on order, with fewer than fifty percent (50%) of its firefighters being full-time paid firefighters.

Section 10. The following KRS section is repealed:

198B.035 Transfer of other agency functions to department.

Section 11. The existing personnel, equipment, funds, personal property, and records of the Commission on Fire Protection Personnel Standards and Education are transferred to the Kentucky Community and Technical College System. Employees who transfer shall be governed by the same rules pertaining to the transferred employees from the KRS Chapter 18A personnel system under KRS 164.5805. New employees shall be governed by the rules established by the board of regents of the Kentucky Community and Technical College System.

The Committee Substitute No. 1 to **HB 631** is as follows:

HB 631, AN ACT relating to the Commission on Fire Protection Personnel Standards and Education.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the ***Kentucky Community and Technical College System***~~[state fire marshal's office in the Department of Housing, Buildings and Construction]~~.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) ***representative of the Kentucky Industrial Response Committee***~~[teacher or administrator representing the fire and rescue training service of the Kentucky Community and Technical College System]~~;

(h) One (1) representative of the Division of Disaster and Emergency Services of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

Section 2. KRS 95A.040 is amended to read as follows:

(1) The commission shall~~[have authority to]~~ make full and complete studies, recommendations and reports to the Governor***,*** ***the Kentucky Community and Technical College System,*** and the Legislature for the purpose of ***establishing***:

(a) ~~[Suggesting]~~Minimum standards and education of fire protection personnel appointed to positions in municipal fire departments, who are to be engaged in fire protection to include fire suppression, fire prevention, arson investigation and other allied fields;

(b) [~~Suggesting~~]Basic minimum courses of training for fire protection personnel;

(c) [~~Suggesting~~]Procedure for the certification of fire protection personnel and the certification of fire protection instructors.

(2) The commission shall have the authority to:

(a) Certify fire protection training and education programs as having attained the minimum required standards suggested by such commission;

(b) Certify instructors as having qualified as fire protection instructors under such conditions as the commission may prescribe;

(c) Direct research in the field of fire protection and accept gifts and grants for such purposes;

(d) Recommend curricula for advanced courses and seminars in fire science training in colleges and institutions of higher education.

(3) The commission shall have authority to receive and to the extent required by federal law to disburse all grants and funds from the federal government for the purpose of fire protection personnel training and education. Except as otherwise provided by law, the ***commission***[~~Department of Insurance~~] shall administer all state programs and all state and federally funded grant programs related to fire protection personnel training and education.

Section 3. KRS 95A.050 is amended to read as follows:

In carrying out its duties and responsibilities, the commission shall have the following additional duties:

(1) To meet at times and places in the State of Kentucky it deems proper. Meetings shall be called by the chairman upon his own motion, or upon the written request of a majority of the members;

(2) To contract with other agencies, public or private, or persons, it deems necessary for the rendition and affording of the services, facilities, studies, and reports it may require to cooperate with city, county, state, and federal agencies in training programs; and

(3) To ***promulgate***[~~recommend to the commissioner of housing, buildings and construction for promulgation~~] reasonable ***administrative*** regulations relating to fire protection personnel.

Section 4. KRS 95A.240 is amended to read as follows:

(1) The commission shall administer the fund pursuant to the provisions of KRS 95A.200 to 95A.300 and may issue such reasonable rules and regulations as, in its discretion, will facilitate the administration of the fund and further the purposes of KRS 95A.200 to 95A.300.

(2) The commission shall determine which local governments are eligible to share in the fund and may withhold or terminate payments to any local government that does not comply with the requirements of KRS 95A.200 to 95A.300 or the rules and regulations issued by the commission thereunder.

(3) The commission shall, from the moneys appropriated to and accruing to the fund from any source, reimburse the ***Kentucky Community and Technical College System***[~~Department of Housing, Buildings and Construction~~] for salaries and other costs of administering the fund, including, but not limited to the costs of commission operations. The amount of reimbursement for any given year shall be determined by the commission and shall not exceed ***ten***[~~five~~] percent ***(10%)***[~~(5%)~~] of the total appropriation to the fund for that year.

Section 5. KRS 95A.262 is amended to read as follows:

(1) The Commission on Fire Protection Personnel Standards and Education shall, in cooperation with the Cabinet for Health Services, develop and implement a continuing program to inoculate every paid and volunteer firefighter in Kentucky against hepatitis B. The program shall be funded from revenues allocated to the Firefighters Foundation Program fund pursuant to KRS 136.392 and 42.190. Any fire department which has inoculated its personnel during the period of July 1, 1991 to July 14, 1992, shall be reimbursed from these revenues for its costs incurred up to the amount allowed by the Cabinet for Human Resources for hepatitis B inoculations.

(2) Except as provided in subsection (3) of this section and KRS 61.316, the Commission on Fire Protection Personnel Standards and Education shall allot on an annual basis a share of the funds accruing to and appropriated for volunteer fire department aid to volunteer fire departments in cities of all classes, fire protection districts organized pursuant to KRS Chapter 75, county districts established under authority of KRS 67.083, and volunteer fire departments created as nonprofit corporations pursuant to KRS Chapter 273. The commission shall allot six thousand five hundred dollars ($6,500) annually to each qualifying department, and beginning on July 1 of 1999, the commission shall allot seven thousand five hundred dollars ($7,500) annually to each qualifying department. Any qualifying department which fails to participate satisfactorily in the Kentucky fire incident reporting system as described in KRS 304.13-380 shall forfeit annually five hundred dollars ($500) of its allotment. The commission shall recommend to the commissioner of the Department of Housing, Buildings and Construction the promulgation of administrative regulations in accordance with the

provisions of KRS Chapter 13A to define satisfactory participation in the Kentucky fire incident reporting system. Administrative regulations for determining qualifications shall be based on the number of both paid firefighters and volunteer firemen within a volunteer fire department, the amount of equipment, housing facilities available, and such other matters or standards as will best effect the purposes of the volunteer fire department aid law. A qualifying department shall include at least twelve (12) firefighters, a chief, and at least one (1) operational fire apparatus or one (1) on order. Fifty percent (50%) of the firefighters shall have completed at least one half (1/2) of one hundred fifty (150) training hours toward certification within the first six (6) months of the first year of the department's application for certification, and there shall be a plan to complete the one hundred fifty (150) training hours within the second year. These personnel, equipment, and training requirements shall not be made more stringent by the promulgation of administrative regulations. No allotment shall exceed the total value of the funds, equipment, lands, and buildings made available to the local fire units from any source whatever for the year in which the allotment is made. A portion of the funds provided for above may be used to purchase group or blanket health insurance and shall be used to purchase workers' compensation insurance, and the remaining funds shall be distributed as set forth in this section.

(3) There shall be allotted two hundred thousand dollars ($200,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund that shall be allocated each fiscal year of the biennium to the firefighters training center fund, which is hereby created and established, for the purposes of constructing new or upgrading existing training centers for firefighters. If any moneys in the training center fund remain uncommitted, unobligated, or unexpended at the close of the first fiscal year of the biennium, then such moneys shall be carried forward to the second fiscal year of the biennium, and shall be reallocated to and for the use of the training center fund, in addition to the second fiscal year's allocation of two hundred thousand dollars ($200,000). Prior to funding any project pursuant to this subsection, a proposed project shall be approved by the Commission on Fire Protection Personnel Standards and Education as provided in subsection (4) of this section and shall comply with state laws applicable to capital construction projects.

(4) Applications for funding low-interest loans and firefighters' training centers shall be submitted to the Commission on Fire Protection Personnel Standards and Education for their recommendation, approval, disapproval, or modification. The commission shall review applications periodically, and shall, subject to funds available, recommend which applications shall be funded and at what levels, together with any terms and conditions the commission deems necessary.

(5) Any department or entity eligible for and receiving funding pursuant to this section shall have a minimum of fifty percent (50%) of its personnel certified as recognized by the Commission on Fire Protection Personnel Standards and Education.

(6) Upon the written request of any department, the Commission on Fire Protection Personnel Standards and Education shall make available a certified training program in a county of which such department is located.

(7) The amount of reimbursement for any given year for costs incurred by the ***Kentucky Community and Technical College System***[~~department~~] for administering these funds, including, but not limited to the expenses and costs of commission operations, shall be determined by the commission and shall not exceed five percent (5%) of the total amount of moneys accruing to the Firefighters Foundation Program fund which are allotted for the purposes specified in this section during any fiscal year.

(8) The commission shall withhold from the general distribution of funds under subsection (2) of this section an amount which it deems sufficient to reimburse volunteer fire departments for equipment lost or damaged beyond repair due to hazardous material incidents.

(9) Moneys withheld pursuant to subsection (8) of this section shall be distributed only under the following terms and conditions:

  (a) A volunteer fire department has lost or damaged beyond repair items of personal protective clothing or equipment due to that equipment having been lost or damaged as a result of an incident in which a hazardous material (as defined in any state or federal statute or regulation) was the causative agent of the loss;

  (b) The volunteer fire department has made application in writing to the commission for reimbursement in a manner approved by the commission and the loss and the circumstances thereof have been verified by the commission;

  (c) The loss of or damage to the equipment has not been reimbursed by the person responsible for the hazardous materials incident or by any other person;

  (d) The commission has determined that the volunteer fire department does not have the fiscal resources to replace the equipment;

  (e) The commission has determined that the equipment sought to be replaced is immediately necessary to protect the lives of the volunteer firefighters of the fire department;

  (f) The fire department has agreed in writing to subrogate all claims for and rights to reimbursement for the lost or damaged equipment to the Commonwealth to the extent that the Commonwealth provides reimbursement to the department; and

  (g) The department has shown to the satisfaction of the commission that it has made reasonable attempts to secure reimbursement for its losses from the person responsible for the hazardous materials incident and has been unsuccessful in the effort.

(10) If a volunteer fire department has met all of the requirements of subsection (9) of this section, the commission may authorize a reimbursement of equipment losses not exceeding ten thousand dollars ($10,000) or the actual amount of the loss, whichever is less.

(11) Moneys which have been withheld during any fiscal year which remain unexpended at the end of the fiscal year shall be distributed in the normal manner required by subsection (2) of this section during the following fiscal year.

(12) No volunteer fire department may receive funding for equipment losses more than once during any fiscal year.

(13) The commission shall make reasonable efforts to secure reimbursement from the responsible party for any moneys awarded to a fire department pursuant to this section.

(14) There shall be allotted each year of the 1992-93 biennium one million dollars ($1,000,000), and each year of the 1994-95, 1996-97, 1998-99, and 2000-01 bienniums one million dollars ($1,000,000) of the insurance premium surcharge proceeds accruing to the Firefighters Foundation Program fund for the purpose of creating a revolving low-interest loan fund, which shall thereafter be self-sufficient and derive its operating revenues from principal and interest payments. The commission, in accordance with the procedures in subsection (4) of this section, may make low-interest loans, and the interest thereon shall not exceed three percent (3%) annually or the amount needed to sustain operating expenses of the loan fund, whichever is less, to volunteer fire departments for the purposes of major equipment purchases and facility construction. Loans shall be made to departments which achieve the training standards necessary to qualify for volunteer fire department aid allotted pursuant to subsection (2) of this section, and which do not have other sources of funds at rates which are favorable given their financial resources. The proceeds of loan payments shall be returned to the loan fund for the purpose of providing future loans. If a department does not make scheduled loan payments, the commission may withhold any grants payable to the department pursuant to subsection (2) of this section until the department is current on its payments. Money in the low-interest loan fund shall be used only for the purposes specified in this subsection. Any funds remaining in the fund at the end of a fiscal year shall be carried forward to the next fiscal year for the purposes of the fund.

Section 6. KRS 95A.270 is amended to read as follows:

The Finance and Administration Cabinet, on the certification of the commission, shall draw warrants as specified on the State Treasurer for the amount of the fund due each eligible local government or the ***Kentucky Community and Technical College System***~~[Department of Housing, Buildings and Construction]~~. Checks shall be issued by the State Treasurer and transmitted to the commission for distribution to the proper officials of participating local governments which have complied with the provisions of KRS 95A.200 to 95A.300. Beginning January 1, 1981, and on the first day of each month thereafter, the share of each eligible local unit shall be distributed from the fund.

Section 7. KRS 95A.290 is amended to read as follows:

(1) If funds appropriated by the General Assembly and otherwise made available to the fund are insufficient to provide the amount of money required by KRS 95A.250, the commission shall make a uniform percentage reduction in the allotment of funds available.

(2) The provisions of subsection (1) of this section shall not apply to amounts due the ***Kentucky Community and Technical College System***~~[Department of Housing, Buildings and Construction]~~ pursuant to KRS 95A.240.

(3) Funds appropriated by the General Assembly and unexpended by the commission at the close of the fiscal year for which the funds were appropriated and otherwise made available to this fund pursuant to KRS 42.190, 95A.220 and 136.392 shall not lapse as provided by KRS 45.229, but shall be carried forward into the following fiscal year, and shall be used solely for the purposes specified in KRS 95A.200 to 95A.300.

SECTION 8. A NEW SECTION OF KRS CHAPTER 95A IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Community and Technical College System shall conduct or contract for the delivery of all certificate, diploma, or associate degree programs approved by the commission.

(2) The Kentucky Community and Technical College System shall provide the fiscal and administrative support requested by the commission, through the Chancellor's Office of Technical Education and Workforce Development.

(3) The commission shall ratify all personnel decisions necessary to perform the functions required by the commission, subject to budget appropriation limits, except that no position including the term "State Fire Marshal" in its title shall remain with or be transferred to the commission or the Kentucky Community and Technical College System, but shall be assigned to the Office of the State Fire Marshal in the Department of Housing, Buildings and Construction.

(4) The commission shall establish the proposed budget for all administrative, fire rescue training functions, and other activities in which the commission is authorized to engage, including, but not limited to salaries, equipment, maintenance, utilities, insurance, and other matters. The commission shall submit the budget to the Kentucky Community and Technical College System, which shall submit the budget, through appropriate channels, for inclusion in the executive branch budget. The Kentucky Community and Technical College System shall not change the proposed budget which is submitted to it, but may comment thereon in writing, with copies sent to the commission, and

to all agencies who receive the proposed budget during the budget process.

Section 9. KRS 75.400 is amended to read as follows:

As used in KRS 75.400 to 75.460, unless the context requires otherwise:

(1) "Commission" means the Commission on Fire Protection Personnel Standards and Education, attached to the ***Kentucky Community and Technical College System***[~~state fire marshal's office in the Department of Housing, Buildings and Construction~~].

(2) "Fire department" includes all of the officers, firefighters, and clerical and maintenance employees, whether paid or volunteer.

(3) "Full-time paid firefighter" means an individual who receives a minimum salary of eight thousand dollars ($8,000) annually, and who works a minimum of two thousand and eighty (2,080) hours per year as an employee of a fire department recognized by the fire commission.

(4) "Paid fire department" means a fire department recognized by the commission, of which at least fifty percent (50%) of its firefighters are full-time paid firefighters.

(5) "Volunteer fire department" means a fire department with a minimum of twelve (12) members and a chief, at least one (1) operational fire apparatus or one (1) on order, with fewer than fifty percent (50%) of its firefighters being full-time paid firefighters.

Section 10. The following KRS section is repealed:

198B.035 Transfer of other agency functions to department.

Section 11. The existing personnel, equipment, funds, personal property, and records of the Commission on Fire Protection Personnel Standards and Education are transferred to the Kentucky Community and Technical College System. Employees who transfer shall be governed by the same rules pertaining to the transferred employees from the KRS Chapter 18A personnel system under KRS 164.5805. New employees shall be governed by the rules established by the board of regents of the Kentucky Community and Technical College System.

HB 640, AN ACT relating to family resource and youth service centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;
(b) Department for Employment Services of the Cabinet for Workforce Development;
(c) Department for Health Services of the Cabinet for Human Resources;
(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;
(e) Department for Social Services of the Cabinet for Human Resources;
(f) Department for Social Insurance of the Cabinet for Human Resources;
(g) Justice Cabinet;
(h) Governor's Office;
(i) Office of the Secretary, Cabinet for Workforce Development;
(j) Parents;
(k) Teachers;
(l) Local school administrators;
(m) Local school boards;
(n) Local community mental health-mental retardation programs;
(o) Local health departments;
(p) Local community action agencies; and
(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and

1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free ***or reduced price*** school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free ***or reduced price*** school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992, family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the State Board for Elementary and Secondary Education, the Governor, and the Legislative Research Commission.

(8) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

The Committee Substitute No. 1 to **HB 640** is as follows:

HB 640, AN ACT relating to family resource and youth service centers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.497 is amended to read as follows:

(1) There is created an Interagency Task Force on Family Resource Centers and Youth Services Centers which shall consist of twenty-one (21) members appointed by the Governor. The twenty-one (21) members appointed shall include one (1) representative from each of the following agencies or groups, except the Department of Education which shall include

three (3) representatives and parents which shall have three (3) representatives:

(a) Department of Education;

(b) Department for Employment Services of the Cabinet for Workforce Development;

(c) Department for Health Services of the Cabinet for Human Resources;

(d) Department for Mental Health and Mental Retardation Services of the Cabinet for Human Resources;

(e) Department for Social Services of the Cabinet for Human Resources;

(f) Department for Social Insurance of the Cabinet for Human Resources;

(g) Justice Cabinet;

(h) Governor's Office;

(i) Office of the Secretary, Cabinet for Workforce Development;

(j) Parents;

(k) Teachers;

(l) Local school administrators;

(m) Local school boards;

(n) Local community mental health-mental retardation programs;

(o) Local health departments;

(p) Local community action agencies; and

(q) A family resource and youth services coordinator.

(2) The task force shall be appointed and begin to meet immediately upon July 13, 1990, to formulate a five (5) year implementation plan establishing family resource and youth services centers designed to meet the needs of children and their families. By July 1, 1995, the implementation plan shall be revised to include two (2) additional years, 1996 and 1997. The centers shall provide services which will enhance students' abilities to succeed in school. If resources are limited, students and families who are the most economically disadvantaged shall receive priority status for receiving services. The secretary of the Cabinet for Human Resources shall call the first meeting, at which time the task force by majority vote shall elect a task force chair to serve a one (1) year term. A new chair shall be elected annually thereafter, and the chair may succeed himself. The Cabinet for Human Resources shall provide adequate staff to assist in the development and implementation of the task force's plan.

(3) The plan developed by the task force shall include an effort to implement a network of family resource centers across the Commonwealth. The centers shall be located in or near each elementary school in the Commonwealth in which twenty percent (20%) or more of the student body are eligible for free ***or reduced price*** school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and shall include, but not be limited to, the following components for each site:

(a) Full-time preschool child care for children two (2) and three (3) years of age;

(b) After school child care for children ages four (4) through twelve (12), with the child care being full-time during the summer and on other days when school is not in session;

(c) Families in training, which shall consist of an integrated approach to home visits, group meetings, and monitoring child development for new and expectant parents;

(d) Parent and child education (PACE) as described in KRS 158.360 or similar program;

(e) Support and training for child day care providers; and

(f) Health services or referral to health services, or both.

(4) The plan developed by the task force shall include a schedule to implement a network of youth services centers across the Commonwealth. The centers shall be located in or near each school, except elementary schools, serving youth over twelve (12) years of age and in which twenty percent (20%) or more of the student body are eligible for free ***or reduced price*** school meals. The plan developed for the centers by the task force shall promote identification and coordination of existing resources and include, but not be limited to, the following components for each site:

(a) Referrals to health and social services;

(b) Employment counseling, training, and placement;

(c) Summer and part-time job development;

(d) Drug and alcohol abuse counseling; and

(e) Family crisis and mental health counseling.

(5) The task force shall complete its implementation plan for the program prior to January 1, 1991, and local school districts shall develop initial plans for their family resource centers and youth services centers by June 30, 1991. By June 30, 1992,

family resource centers and youth services centers shall be established in or adjacent to at least one-fourth (1/4) of the eligible schools, with expansion by one-fourth (1/4) by June 30 of each year thereafter or until the centers have been established in or adjacent to all eligible schools.

(6) A grant program is established to provide financial assistance to eligible school districts establishing family resource centers and youth services centers. The Cabinet for Human Resources shall award the grants pursuant to KRS 156.4977. A school district shall not operate a family resource center or a youth services center which provides abortion counseling or makes referrals to a health care facility for purposes of seeking an abortion.

(7) The task force shall continue to monitor the family resource centers and the youth services centers, review grant applications, and otherwise monitor the implementation of the plan until December 31, 1997, at which time the task force shall cease to exist. During its existence, the task force shall report at least annually to the secretary of the Cabinet for Human Resources, the State Board for Elementary and Secondary Education, the Governor, and the Legislative Research Commission.

(8) Members of the task force may be reimbursed for actual expenses for attending meetings and for other actual and necessary expenses incurred in the performance of their duties authorized by the task force. The expenses shall be paid out of the appropriation for the task force.

Section 2. Whereas the decrease in student populations eligible for free school meals will fall below the 20% threshold in some schools and the decrease will render ineligible for funding a number of family resource and youth services centers that have become vital to students and their families, the school, and the community, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 640** is as follows:

On page 1, by amending the title to read as follows "AN ACT relating to family resource and youth service centers and declaring an emergency."

HB 641, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by a teacher during any school year shall accumulate without limitation and be credited to that teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district after June 30, 1985.

(4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) (a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

(b) A teacher may receive donations of sick leave if:

1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;

2. The teacher's need for the absence and use of leave are certified by a licensed physician;

3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and

4. The teacher has complied with the school district's policies governing the use of sick leave.

(c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9) After July 1, 1982, a district board of education may compensate, at the time of retirement ***or upon the death of a member in active contributing status at the time of death who was eligible to retire by reason of service***, an employee or a teacher***, or the estate of an employee or a teacher,*** for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

The Committee on Transportation reported **HB 100,** with Committee Substitute attached thereto, **HB 465, HB 596, HB 702, HJR 100,** and **SB 97** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 100, AN ACT relating to special military-related license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 186.041 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. A person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, Kentucky National Guard, or Civil Air Patrol in one of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received an honorable discharge and:

1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition;

3. Received a hardship discharge;

4. Was separated due to a disability; or

5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and divided as provided in subsection (3) of this section:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge;

(b) The initial registration fee shall be a twelve dollar ($12) state fee that includes the fifty cent ($0.50) cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (10) of this section;

2. Survivors of Pearl Harbor licensed under subsection (11) of this section; and

3. Members of the National Guard licensed under subsection (12) of this section.

(c) The initial registration fee and the renewal registration fee shall be a twelve dollar ($12) state fee that includes the fifty cent ($0.50) cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;

2. Purple Heart recipients licensed under subsection (9) of this section;

3. Members of the Civil Air Patrol licensed under subsection (13) of this section; and

4. Other active, retired, veteran, and reserve members of the United States Armed Forces licensed under subsection (14) of this section.

(3) The twelve dollar ($12) state fee collected by the county clerk shall be divided as follows:

(a) Seven dollars ($7) shall be forwarded to the Transportation Cabinet; and

(b) Five dollars ($5) shall be forwarded to the Department of Veterans Affairs.

Money shall be forwarded quarterly to the Department of Veterans Affairs under this subsection and shall be deposited into the veterans' program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month. License plates issued under this section shall be replaced on the same schedule as regular license plates are replaced by the Transportation Cabinet under KRS 186.240. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease.

(5) A recipient of the Congressional Medal of Honor or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) disabled by the United States Department of Veterans Affairs and has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate

that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor" and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(10) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoners of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(11) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

- *(a) Was a member of the United States Armed Forces on December 7, 1941;*
- *(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;*
- *(c) Was discharged honorably from the United States Armed Forces; and*
- *(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.*

(12) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (15) of this section.

(13) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (15) of this section.

(14) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a uniformed services license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

  - *1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard;*
  - *2. A decal indicating whether the person's status is active, retired, veteran, or reserve;*
  - *3. A decal indicating a veteran's service in a foreign war; and*
  - *4. A registration number.*

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (15) of this section. The Transportation Cabinet shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans of foreign wars.

(15) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the special military-related license plate being surrendered.

(16) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar

($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(17) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(18) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, a city, county, town, or other political subdivision of this state shall not require any license or fee from a disabled veteran or recipient of the Congressional Medal of Honor who has been issued a special military-related license plate under Section 1 of this Act, for the privilege of operating a motor vehicle upon any street or alley.

(2) When a motor vehicle bearing a special military-related license plate for disabled veterans or recipients of the Congressional Medal of Honor is being operated by or for the benefit of the person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities unless a local ordinance or police regulation:

(a) Prohibits parking on a highway for the purpose of creating a fire lane:

(b) Provides for the accommodation of heavy traffic during morning, afternoon, or evening hours; or

(c) Prohibits parking a motor vehicle in a manner as to clearly be a traffic hazard.

Section 3. The following KRS sections are repealed:

186.044 License plates for recipients of a Purple Heart medal.
186.1701 Special license plate for former prisoner of war.
186.1702 Special license plate for survivors of the attack on Pearl Harbor.
186.173 Special license plates for active or retired members of the National Guard.
186.1731 License plate for members of the Civil Air Patrol.
186.1732 Special license plate for active, reserve, retired, and veteran members of the United States Armed Forces.
186.1733 Special license plate for member or veteran of the Marine Corps League.
186.182 Special license plates for recipients of Congressional Medal of Honor.
186.1861 Special license plates for United States Veterans.

Section 4. Any funds the Transportation Cabinet has received with applications for a Marine Corps League license plate under KRS 186.1733 or for a United States Veterans license plate under KRS 186.1861 shall be refunded to each applicant within thirty (30) days of the effective date of this Act. Any trust and agency account established by the Transportation Cabinet for funds received under KRS 186.1733 or 186.1861 is terminated.

The Committee Substitute No. 1 to **HB 100** is as follows:

HB 100, AN ACT relating to special military-related license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. KRS 186.041 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) The provisions of this section shall govern the issuance of all special military-related license plates. A person who wants to purchase a special military-related license plate shall apply to the county clerk in the county where the person lives on a form prescribed by the Transportation Cabinet. Each initial and renewal application shall be accompanied by proof that the person is associated with the United States Army, United States Navy, United States Air Force, United States Marine Corps, United States Coast Guard, United States Coast Guard Auxiliary, Kentucky National Guard, Merchant Marines with service between December 7, 1941, and August 15, 1945, or Civil Air Patrol in one (1) of the following ways:

(a) An active component member;

(b) A retired member; or

(c) A veteran who received a discharge under honorable conditions, or the veteran's widow and:

1. Performed twenty-four (24) months of active-duty service;

2. Received an early release due to injuries or other medical condition, or at the convenience of the service;

3. Received a hardship discharge;

4. Was separated or retired due to a disability; or

5. Was determined to have a service-connected disability incurred during the enlistment.

(2) Initial registration and renewal registration fees for special military-related license plates shall be charged as provided in this subsection and divided as provided in subsection (3) of this section:

(a) Disabled veterans and recipients of the Congressional Medal of Honor licensed under subsection (5) of this section shall not be charged an initial registration fee and shall not be charged a renewal registration fee. The license plate and certificate of registration shall be issued free of charge;

(b) The initial registration fee shall be a seventeen dollar ($17) state fee that includes the fifty cent ($0.50) cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee, and the renewal registration fee shall be a three dollar ($3) county clerk fee for:

1. Former prisoners of war licensed under subsection (10) of this section;

2. Survivors of Pearl Harbor licensed under subsection (11) of this section; and

3. Members of the National Guard licensed under subsection (12) of this section. In addition, for a renewal of a National Guard license plate, a five dollar ($5) state fee shall be collected to be forwarded to the Department of Veterans' Affairs under subsection (3)(b) of this section.

(c) The initial registration fee and the renewal registration fee shall be a seventeen dollar ($17) state fee that includes the fifty cent ($0.50) cost to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee for:

1. Disabled veterans licensed under subsection (6) of this section;

2. Purple Heart recipients licensed under subsection (9) of this section, except that if a Purple Heart recipient also qualifies as a disabled veteran under subsection (5) of this section, the Purple Heart recipient may receive either a Purple Heart or a disabled veteran's license plate, both initial and renewal, and the certificate of registration free of charge;

3. Members of the Civil Air Patrol licensed under subsection (13) of this section; and

4. Other active, retired, veteran, reserve, or auxiliary members of the United States Army, Navy, Air Force, Marine Corps, Coast Guard, or Merchant Marines licensed under subsection (14) of this section.

(3) The seventeen dollar ($17) state fee collected by the county clerk shall be divided as follows:

(a) Twelve dollars ($12) shall be forwarded to the Transportation Cabinet; and

(b) Five dollars ($5) shall be forwarded to the Department of Veterans Affairs.

Money shall be forwarded quarterly to the Department of Veterans Affairs under this subsection and shall be deposited into the veterans' program trust fund established by KRS 40.460(2)(b).

(4) A special military-related license plate may be issued for use on a passenger car registered under KRS 186.050(1) or for a commercial vehicle registered under KRS 186.050(3)(a) that has a gross laden weight of six thousand (6,000) pounds or less. Except as provided in subsection (7) of this section, a license plate issued under this section shall have the renewal registration decal issued annually during the applicant's birth month. License plates issued under this section shall be replaced on the same schedule as regular license plates are replaced by the Transportation Cabinet under KRS 186.240. The member, retired member, veteran, or reservist may purchase two (2) special military-related license plates annually for vehicles they own or lease.

(5) A recipient of the Congressional Medal of Honor or a disabled veteran who has been or shall be given financial assistance toward the purchase or lease of a motor vehicle by the United States Department of Veterans Affairs under the provisions of 38 U.S.C. sec. 1901, or any other public law that may be passed by the Congress of the United States shall initially and annually be issued a certificate of registration and a special military-related license plate free of charge.

(6) A veteran who has been declared to be at least seventy percent (70%) disabled by the United States Department of Veterans Affairs and has not received financial assistance from the United States Department of Veterans Affairs toward the purchase or lease of a motor vehicle shall be eligible for a disabled veterans license plate upon payment of the initial registration fee required in subsection (2)(c) of this section.

(7) A disabled veterans license plate shall be printed in red, white, and blue colors. Half of the license plate shall be in one (1) color, the other half a second color, and the figures and lettering in the third color. Each plate shall contain the international symbol of access adopted by Rehabilitation International in 1969, the name of the state, the year, the registration number, and the words "Disabled Vet." A disabled veterans license plate shall have the renewal registration decal issued annually on July 31.

(8) A recipient of the Congressional Medal of Honor shall be eligible for a Congressional Medal of Honor license plate that shall be printed in blue and white colors and shall follow the color scheme for all figures and letters as prescribed for passenger cars. Each plate shall contain the name or an abbreviation of the state and the words "Medal of Honor"

and a number uniquely identifying each recipient, in lieu of registration numbers.

(9) A recipient of a Purple Heart medal shall be eligible for a Purple Heart license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Purple Heart license plate shall bear the name "Purple Heart," a registration number, and an appropriate logo to be determined by the Transportation Cabinet.

(10) A person who is a former prisoner of the enemy during World War I, World War II, the Korean War, or the Vietnam War, or the spouse of a deceased former prisoner of war, shall be eligible for a former prisoners of war license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The application shall be accompanied by written proof from the United States Department of Veterans Affairs or other appropriate federal agency stating the period of time the person or person's spouse was a prisoner of war. A former prisoner of war license plate shall be printed in red, white, and blue colors. Each plate shall contain the name of the state, the year, the registration number, and the words "Former P.O.W." If a former prisoner of war dies with a vehicle licensed as authorized under this section, the person's surviving spouse may retain the license plate for use on the same vehicle or on another vehicle that complies with the provisions of subsection (4) of this section.

(11) A person who is certified by the Kentucky chapter of the Pearl Harbor Survivors Association as being a survivor of the attack on Pearl Harbor shall be eligible for a Pearl Harbor license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. The Transportation Cabinet shall issue an applicant an appropriately designed plate identifying the vehicle as registered to a Pearl Harbor survivor. The person shall be required to attach to the special military-related license plate application written evidence from the Kentucky chapter of the Pearl Harbor Survivors Association that the person:

- *(a) Was a member of the United States Armed Forces on December 7, 1941;*
- *(b) Was on station on December 7, 1941, during the hours of 7:55 a.m. to 9:45 a.m., Hawaii time, at Pearl Harbor, the island of Oahu, or offshore at a distance not to exceed three (3) miles;*
- *(c) Was discharged honorably from the United States Armed Forces; and*
- *(d) Is certified by the Kentucky chapter of the Pearl Harbor Survivors Association.*

(12) A person who is a member of the Kentucky National Guard, or a retired member, shall be eligible for a National Guard license plate upon payment of the initial registration fee required in subsection (2)(b) of this section. A National Guard license plate shall bear the name "Kentucky National Guard," a registration number, and the logo of the National Guard. Upon termination of membership in the Kentucky National Guard, except for those who remain eligible through retirement, a person shall comply with the provisions of subsection (15) of this section.

(13) A person who is a member of the Civil Air Patrol shall be eligible for a Civil Air Patrol license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. A Civil Air Patrol license plate shall bear the name "Civil Air Patrol," a registration number, and an appropriate logo to be determined by the Transportation Cabinet. Upon termination of membership in the Civil Air Patrol, a person shall comply with the provisions of subsection (15) of this section.

(14) (a) A person who meets the requirements of subsection (1) of this section shall be eligible for a military license plate upon payment of the initial registration fee required in subsection (2)(c) of this section. The plate shall bear:

- *1. A seal indicating Army, Navy, Air Force, Marine Corps, or Coast Guard, or, in the case of the Merchant Marines, a seal indicating the branch of service issuing a discharge;*
- *2. A decal indicating whether the person's status is active duty, reserve duty, veteran, retired veteran, or widow; and, if applicable, a decal for auxiliary in the case of the Coast Guard or a decal for the Merchant Marines;*
- *3. A veteran's decal may further indicate a veteran's service in a wartime era; and*
- *4. A registration number.*

(b) Upon termination of membership in the active component or reserves of the United States Armed Forces or the United States Coast Guard, a person shall comply with the provisions of subsection (15) of this section.

(c) The Transportation Cabinet, in coordination with the Department of Veterans' Affairs, shall promulgate an administrative regulation under KRS Chapter 13A defining criteria for the issuance of specific decals for veterans' wartime service.

(15) Except for persons changing their status to retired, within thirty (30) days of termination of membership or reserve status in a group eligible for a special military-related license plate, a person issued a military plate under this section shall return the plate to the county clerk of the county of his residence. Upon payment of a three dollar ($3) county clerk fee, the county clerk shall issue the person a regular license plate to replace the special military-related license plate being surrendered.

(16) Upon the sale, transfer, or termination of a lease of a motor vehicle for which a special military-related license plate has been issued, the owner shall return the military plate and the certificate of registration to the county clerk. The

county clerk shall issue a regular license plate and certificate of registration upon payment of a twelve dollar ($12) state fee which includes the fifty cent ($0.50) fee to reflectorize the plate under KRS 186.240(2)(c) and a three dollar ($3) county clerk fee. The twelve dollar ($12) state fee shall be forwarded to the Transportation Cabinet. Upon request and payment of a three dollar ($3) fee, the county clerk shall reissue the special military-related license plate for use on any other vehicle owned by the same person who purchased the special plate for the current licensing period.

(17) The cabinet shall promulgate administrative regulations to set forth the documentation required in order to establish a person's qualifications to receive any license plate issued under this section.

(18) A person seeking a special military-related license plate for a vehicle provided to that person pursuant to an occupation shall conform to the requirements of KRS 186.050(14).

(19) If a special military-related license plate is lost, stolen, mutilated, or deteriorates to the point where the inscriptions or decals are not discernible, the person to whom the plate was issued may obtain a replacement plate free of charge.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) Any other provision of law to the contrary notwithstanding, a city, county, town, or other political subdivision of this state shall not require any license or fee from a disabled veteran or recipient of the Congressional Medal of Honor who has been issued a special military-related license plate under Section 1 of this Act, for the privilege of operating a motor vehicle upon any street or alley.

(2) When a motor vehicle bearing a special military-related license plate for disabled veterans or recipients of the Congressional Medal of Honor is being operated by or for the benefit of the person, the motor vehicle may be parked for a period of two (2) hours in excess of the legal parking period permitted by local authorities unless a local ordinance or police regulation:

(a) Prohibits parking on a highway for the purpose of creating a fire lane;

(b) Provides for the accommodation of heavy traffic during morning, afternoon, or evening hours; or

(c) Prohibits parking a motor vehicle in a manner as to clearly be a traffic hazard.

Section 3. The following KRS sections are repealed:

186.044 License plates for recipients of a Purple Heart medal.
186.1701 Special license plate for former prisoner of war.
186.1702 Special license plate for survivors of the attack on Pearl Harbor.
186.173 Special license plates for active or retired members of the National Guard.
186.1731 License plate for members of the Civil Air Patrol.
186.1732 Special license plate for active, reserve, retired, and veteran members of the United States Armed Forces.
186.182 Special license plates for recipients of Congressional Medal of Honor.
186.1861 Special license plates for United States Veterans.

Section 4. Any funds the Transportation Cabinet has received with applications for a United States Veterans license plate under KRS 186.1861 shall be refunded to each applicant within thirty (30) days of the effective date of this Act. Any trust and agency account established by the Transportation Cabinet for funds received under KRS 186.1861 is terminated.

HB 465, AN ACT relating to boating.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 235 IS CREATED TO READ AS FOLLOWS:

(1) All persons under twelve (12) years of age in an open boat or on an open deck of a vessel being used for recreational purposes on the waters of this state shall wear a personal flotation device approved by the United States Coast Guard while the vessel is underway. Any personal flotation devices required by this section shall be in good and serviceable condition, appropriately sized, and properly worn by the person. It shall be unlawful for any person to operate a vessel in violation of this subsection.

(2) No boat or watercraft owner or operator shall permit a child under the age of twelve (12) years to violate subsection (1) of this section.

(3) The provisions of this section shall not apply to a child who is a passenger on a commercial vessel licensed by the United States Coast Guard for the transportation of passengers for hire.

(4) A charge under subsection (1) or (2) of this section shall be dismissed if the defendant provides to the county attorney or the court proof that the person who was alleged to be under twelve (12) years of age was actually twelve (12) years of age or older. If the information is provided to the county attorney and the county attorney deems the proof sufficient, the county attorney shall seek dismissal of the charge and the defendant shall not be required to appear in court. If the information is presented in court and the court deems the proof sufficient, the court shall dismiss the charge. In either

case, court costs shall not be assessed.

Section 2. KRS 235.990 is amended to read as follows:

(1) Any person who violates any of the provisions of this chapter or administrative regulations adopted under this chapter shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200). After July 15, 2000, any person who violates KRS 235.230 shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100) and each day the violation continues may constitute a separate offense.

(2) Any person who violates KRS 235.240 shall not be subject to the penalties of KRS Chapter 189A but shall be guilty of a separate offense and subject to a fine of one hundred dollars ($100) to two hundred fifty dollars ($250) for the first offense, a fine of two hundred fifty dollars ($250) to five hundred dollars ($500) for the second offense, and a fine of five hundred dollars ($500) to one thousand dollars ($1,000) or imprisonment in the county jail for not less than thirty (30) days, or both, for the third or subsequent offense. Refusal to submit to a breath alcohol analysis or similar test in violation of KRS 235.240(3) shall be deemed an offense.

(3) A person may, in addition or in lieu of the penalties specified in subsection (1) or (5) of this section and in addition to the penalties of subsection (2) of this section, be required to take a safe-boating course approved by the department or offered by the United States Coast Guard, Coast Guard Auxiliary, or U.S. Power Squadron and to present the court a certificate documenting successful completion of the course.

(4) After July 15, 2000, any person who violates KRS 235.420 or 235.430 shall be fined not less than fifteen dollars ($15) nor more than one hundred dollars ($100). A person who violates KRS 235.420 or 235.430 shall be fined not less than one hundred dollars ($100) nor more than three hundred dollars ($300) for the second offense, and not less than three hundred dollars ($300) nor more than five hundred dollars ($500) for the third or any subsequent offense.

(5) Any person failing to obey a citation issued in accordance with KRS 235.315 shall be guilty of a separate offense and shall be fined not less than fifty dollars ($50) nor more than two hundred dollars ($200).

(6) Any person who makes a false statement regarding a marine boat toilet on the application for registration or renewal registration for a motorboat shall be fined one hundred dollars ($100). This penalty shall be separate from any other penalty that may be applicable for violation of this chapter.

(7) Any person who resists, obstructs, interferes with, threatens, attempts to intimidate, or in any other manner interferes with any officer in the discharge of his duties, other than a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters, shall be guilty of a Class A misdemeanor.

(8) Any person who commits a criminal homicide or an assault against an officer enforcing the provisions of this chapter, KRS Chapter 150, or the administrative regulations issued under either of these chapters shall be subject to the penalties specified for the offense under KRS Chapter 507 or 508, as appropriate.

(9) Any person who violates Section 1 of this Act shall be fined fifty dollars ($50).

HB 596, AN ACT relating to Kentucky Horse Council license plates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186.1868 is amended to read as follows:

(1) Any person who complies with the provisions of KRS 186.186 may apply for a special Kentucky Horse Council license plate.

(2) ***Any person who registers a farm truck under KRS 186.050(4)(a) and who complies with the provisions of KRS 186.186 may apply for a special Kentucky House Council license plate. The registration receipt for a farm truck issued a Kentucky Horse Council license plate shall state the declared gross weight of the vehicle.***

(3) In addition to the fees required by KRS 186.186, a person applying for a Kentucky Horse Council license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with a Kentucky Horse Council license plate shall pay a five dollar ($5) fee, in addition to the renewal fee established in KRS 186.186(2). The five dollar ($5) fee shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4)[~~(3)~~]A special Kentucky Horse Council license plate shall be the color and design selected by the Kentucky Horse Council and approved by the Transportation Cabinet. The name Kentucky and the annual registration renewal decal shall appear on the plate. The Transportation Cabinet may use any combination of letters or numerals as needed in the numbering of the license plates.

(5)[~~(4)~~]All revenues generated pursuant to this subsection shall be forwarded by the Transportation Cabinet to the Kentucky Horse Council.

Section 2. This Act takes effect January 1, 2001.

HB 702, AN ACT relating to traffic regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) ***A***[~~No~~] person shall ***not*** stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where[~~ such~~] parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of[~~ such~~] a highway in such a manner[~~ and to such extent~~] that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal***, except***[~~. In no event shall~~] a disabled vehicle ***shall not*** remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation***,*** or sign***,*** or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on ***the***[~~such~~] vehicle or discharging passengers therefrom, ***except the***[~~provided that no such~~] vehicle shall ***not*** stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions;[~~ or~~]

(d) Any vehicle required to stop by reason of an obstruction to its progress***; or***

(e) Any vehicle used for the purpose of collecting solid waste except the vehicle shall not stop to collect solid waste at a place on the highway that does not afford reasonable visibility to approaching motor vehicles from both directions.

(2) When any police officer finds a vehicle standing upon[~~ such~~] a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days.[~~ No~~] Notification shall ***not*** be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) ***A***[~~No~~] vehicle shall ***not*** be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, ***and a***[~~nor shall any~~] vehicle registered at a gross weight of over forty-four thousand (44,000) pounds ***shall not*** be parked, stopped***,*** or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) ***A***[~~No~~] person shall ***not*** stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) ***A***[~~No~~] person shall ***not*** move a vehicle not lawfully under his control into any[~~ such~~] prohibited area.

(7) The restrictions in subsection (5)(e) of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

HJR 100, A JOINT RESOLUTION directing the Transportation Cabinet to name United States Route 68 from Lexington to Maysville the "Simon Kenton Highway".

WHEREAS, Simon Kenton, pioneer settler, was born April 3, 1755, in Fauquier County, Virginia, the son of Mark and Mary Miller Kenton; and

WHEREAS, Simon Kenton's early travels led him, in 1775, to establish camp and become the first permanent settler in what is today Mason County, Kentucky; and

WHEREAS, Simon Kenton's heroics were evident when he saved the life of famed Kentucky pioneer Daniel Boone during a raid on Fort Boonesborough in 1777; and

WHEREAS, in 1778, Simon Kenton joined the colonists' revolution against British rule of America and had many adventures in combat; and

WHEREAS, after the war, Simon Kenton established the Kenton's Station settlement on Lawrence Creek in Mason County and defended it from attacks; and

WHEREAS, Simon Kenton's lifelong heroism and adventurous spirit helped tame the land we know today as Kentucky; and

WHEREAS, it is appropriate that Simon Kenton is honored and remembered for his role in the history of our Commonwealth;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name United States Route 68 from Lexington to Maysville the "Simon Kenton Highway".

Section 2. The Transportation Cabinet shall immediately begin preparing the appropriate highway signs naming the "Simon Kenton Highway" to facilitate their erection upon the effective date of this Resolution.

Section 3. That the Clerk of the House of Representatives is directed to transmit copies of this Resolution to the Secretary of the Transportation Cabinet and to the District Highway Engineers in Lexington, Kentucky and Flemingsburg, Kentucky.

SB 97, AN ACT relating to the airport zoning commission.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 183.861 is amended to read as follows:

There is hereby created and established within the cabinet, a commission to be known as the "Kentucky Airport Zoning Commission" which, notwithstanding the provisions of KRS Chapters 100 and 147, shall be empowered to issue[~~ such~~] orders, rules, and regulations pertaining to use of land within and around all ***military and public use airports, heliports, and sea plane bases***[~~publicly owned airports~~] within the state as will promote the public interest and protect and encourage the proper use of ***the***[~~such~~] airports and their facilities.

Section 2. KRS 183.865 is amended to read as follows:

All of the powers, provisions and duties relating to the zoning and use of land, structures and air space within and around ***military and public use airports, heliports, and sea plane bases***[~~public airports~~] within the state are hereby conferred upon, delegated to and vested in the commission. The commission shall also exercise all powers, provisions, and duties relating to the use of navigable air space within the state. Nothing contained in this chapter shall prevent a governmental unit from acquiring airports, airport facilities, or air navigation facilities, or from taking any action authorized by law for the elimination of any airport hazard, either alone or jointly with the commission.

Section 3. KRS 183.867 is amended to read as follows:

(1) The commission shall require that every ***military and public use airport, heliport, and sea plane base***[~~public airport~~] in the state file with it, from time to time, as required, maps showing the airport and area surrounding ***the***[~~such~~] airport used for approach or landing purposes. The commission shall thereafter designate on ***the***[~~such~~] maps, by reference to the regulations or standards promulgated by the Federal Aviation Administration concerning the area required for the safe maneuvering approach and landing of aircraft, the area over which jurisdiction will be assumed for zoning purposes. The commission shall notify any local zoning bodies of the area so designated and may exercise jurisdiction of ***the***[~~such~~] area insofar as it pertains to the safe and proper maneuvering of aircraft and the safe and proper use of the airport involved. The local zoning body may retain jurisdiction of zoning in such areas as to all other matters.

(2) The commission may adopt[~~ such~~] regulations pertaining to the zoning of areas over which jurisdiction is assumed as will provide for the proper and safe use of ***the***[~~such~~] area and airport.

(3) The commission shall maintain a public file in the offices of the cabinet showing maps of each ***military and public use airport, heliport, and sea plane base***[~~public airport~~] within the state and the area around ***the***[~~such~~] airport over which it has assumed jurisdiction for zoning purposes and such shall constitute public notice of the restrictions and zoning applicable to ***the***[~~such~~] areas or airport. The commission shall also maintain a public file showing any regulations adopted pertaining to land uses in areas zoned and ***these regulations***[~~such~~] shall constitute public notice of same.

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 481, HB 586,** with Committee Substitute attached thereto, and **HB 725** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 481, AN ACT proposing to amend Section 28 of the Constitution of Kentucky relating to the separation of governmental powers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 28 of the Constitution of Kentucky be amended to read as follows:

No person or collection of persons, being of one of those departments, shall exercise any power properly belonging to either of the others, except in the instances hereinafter expressly directed or permitted. ***The General Assembly shall have the authority to establish by general law a process permitting it, or an agency or committee it designates, to review, approve, or reject any administrative regulation of an officer or agency of the executive department during or between regular sessions of the General Assembly.***

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

HB 586, AN ACT relating to circuit clerks and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.165 and any other provision of law to the contrary notwithstanding, the filing deadline for candidates for the office of circuit clerk for the general election to be held in November 2000 only, which would otherwise be set pursuant to KRS 118.165(1) is hereby extended until the close of business on March 16, 2000. This section shall have retroactive effect as necessary to suspend the filing deadline for candidates for circuit clerk that otherwise would be applicable for the 2000 election for circuit clerk. The November election for circuit clerk to which this section applies shall be conducted by using supplemental paper ballots, and the cost of the ballots shall be assumed by the county.

Section 2. KRS 118.225 and any other provision of law to the contrary notwithstanding, the order in which the names of candidates for the office of circuit clerk shall appear on the ballot, for the general election to be held in November 2000 only, shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m. standard time on March 17, 2000. Any previous drawing for ballot position for the office of circuit clerk which would otherwise be applicable in accordance with KRS 118.225 or otherwise shall be null and void. This section shall operate retroactively as may be necessary to suspend the operation of KRS 118.225 to the extent applicable to the election for circuit clerk to be held in November 2000.

Section 3. Whereas time is of the essence in extending the deadline for candidates filing for the position of circuit clerk for the year 2000, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute No. 1 to **HB 586** is as follows:

HB 586, AN ACT relating to circuit clerks and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.165 and any other provision of law to the contrary notwithstanding, the filing deadline for candidates for the office of circuit clerk for the primary election to be held in May 2000 only, which would otherwise be set pursuant to KRS 118.165(1) is hereby extended until the close of business on March 16, 2000. This section shall have retroactive effect as necessary to suspend the filing deadline for candidates for circuit clerk that otherwise would be applicable for the 2000 election for circuit clerk.

Section 2. KRS 118.225 and any other provision of law to the contrary notwithstanding, the order in which the names of candidates for the office of circuit clerk shall appear on the ballot, for the primary election to be held in May 2000 only, shall be determined by lot at a public drawing in the office of the county clerk at 2 p.m. standard time on March 17, 2000. Any previous drawing for ballot position for the office of circuit clerk which would otherwise be applicable in accordance with KRS 118.225 or otherwise shall be null and void. This section shall operate retroactively as may be necessary to suspend the operation of KRS

118.225 to the extent applicable to the election for circuit clerk to be held in May 2000.

Section 3. KRS 118.215 and any other provision of law to the contrary notwithstanding, the certification of circuit clerk candidates' names for the primary election to be held in May 2000 only shall be made on March 24, 2000. Any previous certification for the office of circuit clerk shall be null and void. This section shall have retroactive effect as necessary to suspend the deadline for certification of candidates that otherwise would be applicable for the 2000 primary election for circuit clerk.

Section 4. Whereas time is of the essence in extending the deadline for candidates filing for the position of circuit clerk for the year 2000, an emergency is declared to exist and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

HB 725, AN ACT relating to recanvass procedures for elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 117.305 is amended to read as follows:

(1) The canvass and returns provided for in KRS 117.275 shall constitute the official returns of the precinct, unless before *4*~~[6]~~ p.m. on the Tuesday following a primary or regular election, or ***before 4 p.m. on the day following***~~[within twenty-four (24) hours after the close of the polls in]~~ a special election held for the purpose of filling a vacancy, the county clerk or county board of elections takes notice of a discrepancy in the tally of votes cast in any precinct or number of precincts, or a candidate makes a written request to the county board of elections in the case of a candidate who has filed with the county clerk, or the Secretary of State in the case of a candidate who has filed with the Secretary of State, to check and recanvass the voting machines and absentee ballots of any precinct or any number of precincts involving his race. After this time period has elapsed and notice is taken, the ***county*** election board shall~~[immediately]~~ assemble ***at 9 a.m. on the Thursday following the filing deadline to request a recanvass, and not sooner,*** and recheck and recanvass each machine and make a proper return thereof to the county clerk, and the canvass and return shall become the official returns for the election. In making the recanvass, the board shall make a record of the number of the seal upon the voting machine and, without unlocking the machine against voting, recanvass the vote cast thereon. If, ***after***~~[upon]~~ a recanvass, it is found that the original canvass of the returns has been correctly made from the machine, and that there still remains a discrepancy unaccounted for, this discrepancy shall be noted.~~[The registering counter of each candidate who requested a recanvass and the counter of the candidate's opponent shall be reset at zero (0) before it is tested, after which it shall be operated at least one hundred (100) times.]~~ If, upon recanvass, it appears that the original canvass of the returns by the election officers was incorrect, the returns and all papers being prepared by the board shall be corrected accordingly~~[, except that there shall be no change in the vote of any candidate from that originally certified unless the candidate was actually notified]~~. The county board of elections shall, immediately upon receipt of a request for a recanvass, notify each candidate for the office of the time and place of the recanvass. At the recanvass, each political party represented on the board may appoint a representative there to be its governing body, and also each candidate to be voted for may be present, either in person or by a representative or both. The county board of elections shall authorize representatives of the news media to observe the recanvass of the votes cast on the voting machine in each precinct. Nothing in this section shall prohibit an individual from requesting, in addition to a recanvass, a recount as authorized by KRS Chapter 120.

(2) The State Board of Elections shall prescribe forms to be used by county boards of election to report all recanvassed votes. The form shall include the following information:

(a) The name of the county in which the recanvass was conducted;

(b) The date of the report;

(c) The date of the election;

(d) The office for which the recanvass was conducted;

(e) The names of each candidate for the office being recanvassed; and

(f) The machine votes, absentee votes, and vote totals for each candidate, as well as write-in votes cast in a regular or special election for candidates whose names did not appear on the ballot.

The report shall be signed by each member of the county board of elections.

(3) The county board of elections shall file its recanvass report as prescribed in administrative regulations promulgated by the State Board of Elections in conformity with KRS Chapter 13A.

(4) The State Board of Elections shall promulgate administrative regulations in accordance with KRS Chapter 13A to establish the proper procedures for conducting a recanvass for each type of voting system approved by the State Board of Elections and in use in Kentucky.

The Committee on Licensing and Occupations reported **HB 618,** with Committee Amendment attached thereto, and **HB 663,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 618, AN ACT relating to physical therapy practitioners.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

(1) The board shall establish an impaired physical therapy practitioners committee to promote the early identification, intervention, treatment, and rehabilitation of physical therapists and physical therapists' assistants who may be impaired by reason of illness or of alcohol or drug abuse, or as a result of any physical or mental condition.

(2) The board may enter into a contractual agreement with a nonprofit corporation, physical therapy professional organization, or similar organization for the purpose of creating, supporting, and maintaining an impaired physical practitioners committee.

(3) The board may promulgate administrative regulations in accordance with KRS Chapter 13A to effectuate and implement a committee formed by the provisions of this section.

(4) Beginning January 1, 2001, the board shall collect an assessment fee not to exceed twenty dollars ($20) per licensee or certificate holder, payable to the board, to be added to each licensure and certification renewal application fee. Proceeds from the assessment shall be expended on the operation of an impaired physical therapy practitioner committee formed by the provisions of this section. The fee shall be set by the promulgation of administrative regulations.

(5) Members of an impaired physical therapy practitioners committee, any administrator, staff member, consultant, agent, volunteer, or employee of the committee acting within the scope of their duties and without actual malice, and all other persons who furnish information to the committee in good faith and without actual malice shall not be liable of any claim or damages as a result of any statement, decision, opinion, investigation, or action taken by the committee or by an individual member of the committee.

(6) All information, interviews, reports, statements, memoranda, or other documents furnished to or produced by the impaired physical therapy practitioners committee, all communication to or from the committee, and all proceedings, findings, and conclusions of the committee including those relating to intervention, treatment, or rehabilitation, which in any way pertain or refer to a physical therapist or physical therapist's assistant who is or may be impaired, shall be privileged and confidential.

(7) All records and proceedings of the committee that pertain or refer to a licensee or a certificate holder who may be, or actually is, impaired shall be privileged and confidential and shall be used by the committee and its members only in the exercise of the proper function of the committee and shall not be considered public records and shall not be subject to court subpoena and subject to discovery or introduction as evidence in any civil, criminal, or administrative proceedings except as described in subsection (8) of this section.

(8) The committee may disclose information relative to an impaired physical therapist or physical therapist's assistant only when:

(a) It is essential to disclose the information to persons or organizations needing the information in order to address the intervention, treatment, or rehabilitation needs of the impaired practitioner;

(b) Its release is authorized in writing by the impaired physical therapist or physical therapist's assistant; or

(c) The information is subject to court order.

(9) The impaired physical therapy practitioners committee shall make an annual report to the board.

SECTION 2. A NEW SECTION OF KRS CHAPTER 327 IS CREATED TO READ AS FOLLOWS:

Any physical therapist, physical therapist's assistant, or employer of physical therapy practitioners having knowledge of facts by actual or direct knowledge shall report to the board of physical therapy a physical therapist or physical therapist's assistant who:

(1) Has been convicted of a misdemeanor or felony that involved acts that bear directly on the qualifications or ability of the applicant, licensee, or certificate holder to practice physical therapy;

(2) Is suspected of fraud or deceit in procuring or attempting to procure a license to practice physical therapy or of negligently performing actions that justify action against a physical therapist or physical therapist's assistant's license as identified in subsection (2) of Section 7 of this Act;

(3) Has had a license to practice as a physical therapist or a certificate as a physical therapist's assistant denied, limited, suspended, probated, or revoked in another jurisdiction on grounds sufficient to cause a license or certificate to be denied, limited, suspended, probated, or revoked in this Commonwealth; or

(4) Is practicing physical therapy without a current active license, certificate, or valid temporary permit issued by the board.

Section 3. KRS 327.030 is amended to read as follows:

There is hereby established a State Board of Physical Therapy which shall consist of *seven (7)*~~[five (5)]~~ members who shall be appointed by the Governor.

(1) One (1) member shall be a citizen at large who is not affiliated with and does not have more than five percent (5%) financial interest in any one (1) health care profession or business.

(2) All other~~[At least three (3) of the]~~ members shall be appointed ***and vacancies shall be filled*** from a list of five (5) persons ***per position*** submitted by the Kentucky ***Physical Therapy Association.***~~[chapter of the American Physical Therapy Association,]~~ All~~[of whom]~~ shall be residents of Kentucky and shall have engaged in the ***unrestricted*** practice of physical therapy within this state for at least two (2) years ***without disciplinary action***~~[One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated]~~.

(3) All appointments to the board after the effective date of this Act shall be for a term of four (4)~~[Members shall be appointed for a term of three (3)]~~ years and until their successors are appointed and qualify. ***No member shall serve for more than two (2) successive terms, or for more than ten (10) consecutive years. The Governor may remove any member of the board for misconduct, incompetence, or neglect of duty***~~[Vacancies of physical therapist members shall be filled by the Governor in like manner from a list of five (5) submitted by the Kentucky chapter of the American Physical Therapy Association]~~.

(4) The board shall annually elect a chairman,~~[and]~~ a secretary***, and a chairman-elect***~~[A member may be removed from the board only for cause. Failure to attend at least half of the board meetings in a fiscal year shall constitute cause]~~.

(5) There shall be no liability on the part of, and no action for damages against, any current or former board member, representative, agent, or employee of the board, when the person is functioning within the scope of board duties, acting without malice and with the reasonable belief that the actions taken by him or her are warranted by law.

(6) Each board member shall receive, in addition to travel, lodging, and other actual and necessary expenses, a per diem not to exceed one hundred twenty dollars ($120) for each day the member is actually engaged in the discharge of official duties approved by the board. The board shall, by promulgation of administrative regulations, set the amount of the per diem.

Section 4. KRS 327.040 is amended to read as follows:

(1) It shall be the duty of the State Board of Physical Therapy to receive applications from persons desiring to become physical therapists and to determine whether said applicants meet the qualifications and standards required by this chapter of all physical therapists. The board shall also be charged with enforcement of the provisions of this chapter.

(2) The board is an agency of state government with the power to institute criminal proceedings in the name of the Commonwealth against violators of this chapter, and to institute civil proceedings to enjoin any violation of this chapter. The board shall investigate every alleged violation of this chapter coming to its notice and shall take action as it may deem appropriate. It shall be the duty of the Attorney General, the Commonwealth's attorneys, and the county attorneys to assist the board in prosecuting all violations of this chapter.

(3) The board shall meet at least once each quarter at such place in this state as may be selected by the board. ***Four (4)***~~[Three (3)]~~ members of the board shall constitute a quorum for the transaction of business. All meetings shall be held at the call of the chairman or at a call of a quorum of members upon not less than ten (10) days' written notice, unless notice shall be waived. The presence of any member at any meeting of the board shall constitute a waiver of notice thereof by the member.

(4) The board may conduct investigations and schedule and conduct administrative hearings in accordance with KRS Chapter 13B, to enforce the provisions of this chapter or administrative regulations promulgated pursuant to this chapter. ***The board shall have the authority to administer oaths, receive evidence, interview persons, issue subpoenas, and require the production of books, papers, documents, or other evidence***~~[Upon majority vote by the board, the board or any member thereof may issue subpoenas to compel the attendance of witnesses and the production of documents in connection with any investigations conducted by the board]~~. In case of disobedience to a subpoena, the board may invoke the aid of the Franklin Circuit Court. ***Any order or subpoena of the court requiring the attendance or testimony of witnesses or the production of documentary evidence may be enforced and shall be valid anywhere in the Commonwealth.***

(5) The board shall keep a minute book containing a record of all meetings of the board.

(6) The board shall maintain a register of all persons licensed or certified under this chapter. This register shall show the name of every licensee or certificate holder in this state, his current business and residence address and telephone numbers, and the date and number of his license or certificate. ***A licensee or certificate holder shall notify*** the board~~[shall be notified by a licensee or certificate holder]~~ of a change of name, address, or telephone number, within thirty (30) days of the change.

(7) The board's records shall be updated annually.

(8) The board shall publish annually and make available, a current directory of all ***licensed physical therapists and certified physical therapists' assistants***~~[licensees and certificate holders]~~.

(9) The board shall adopt a seal which shall be affixed to every license and certificate granted by it.

(10) The board may promulgate and enforce reasonable administrative regulations for the effectuation of the purposes of this

chapter pursuant to the provisions of KRS Chapter 13A.

(11) The board shall promulgate by administrative regulation a code of ethical standards and standards of practice.

(12) The board shall have the right to regulate physical therapists' assistants and may promulgate reasonable administrative regulations regarding certification, limitations of activities, supervision, and educational qualifications for physical therapists' assistants. The board may establish reasonable fees for the certification, renewal, and endorsement of physical therapists' assistants. The fees shall not exceed corresponding fees for physical therapists.

(13) The board shall promulgate administrative regulations governing the physical and mental examination of physical therapists, physical therapists' assistants, or applicants, who may be impaired by reason of a mental, physical, or other condition that impedes their ability to practice competently. For purposes of enforcing this section, the board shall have the power to order an immediate temporary suspension in accordance with KRS 13B.125 if there is a reasonable cause to believe that a physical therapist, physical therapist's assistant, or applicant may be impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently.

Section 5. KRS 327.050 is amended to read as follows:

(1) Before applying for licensure by the board as a physical therapist, a person shall have successfully completed an accredited program in physical therapy~~[and be a graduate of an accredited school of physical therapy]~~ approved by the board and shall have fulfilled the requirements of KRS 214.615(1). No school shall be approved by the board unless it has been approved for the educational preparation of physical therapists by the recognized national accrediting agency for physical therapy educational programs.

(2) Any person who possesses the qualifications required by this chapter and who desires to apply for licensure as a physical therapist in Kentucky shall make written application to the board, on forms to be provided by the board. The application shall be accompanied by a nonrefundable application fee in an amount to be determined by the board, but not to exceed two hundred fifty dollars ($250).~~[Upon acceptance by the board of the application, the applicant shall pay an examination fee in an amount sufficient to cover the actual cost of the examination and shall successfully complete the board-approved examination.]~~

(3) If it appears from the application that the applicant possesses the qualifications required by this chapter and has not yet successfully completed the board-approved examination, the applicant shall be ***allowed to sit for the***~~[admitted to the next scheduled]~~ examination and tested in the subjects the board may determine to be necessary.

(4) Examinations shall be held within the state at least once a year at the time and place as the board shall determine.

(5) An applicant who is admitted to the examination or an applicant who has submitted satisfactory evidence that he has been accepted as a candidate for licensure by examination in a state which offers an examination approved by the board may be granted a temporary permit which shall be valid until his examination is graded and he is notified by the board of his score. ***The board may summarily withdraw a temporary permit upon determination that the person has made any false statement to the board on the application, or the person fails to pass an examination approved by the board.***

(6) An applicant who receives a passing score as determined by the board and who meets the other qualifications required by this chapter shall be licensed as a physical therapist.

(7) An applicant who fails to receive a passing score on his examination shall not be licensed; but the board may, by administrative regulation, permit applicants to take the examination more than once.

(8) All licenses ***and certificates*** shall be renewed biennially, upon payment on or before March 31 of each uneven numbered year of a renewal fee ***in an amount*** to be ***promulgated***~~[fixed]~~ by the board ***by administrative regulations***~~[in an amount not to exceed one hundred dollars ($100)]~~. Any licensed ***or certified*** person seeking renewal shall ***retain for three (3) years***~~[include]~~ proof of the completion of the course described in KRS 214.610(1) on the form provided by the cabinet.

(9) Licenses ***and certificates*** which are not renewed by March 31 of each uneven numbered year shall lapse.

(10) This chapter shall not be construed to affect or prevent:

(a) A student of physical therapy from engaging in clinical practice under the supervision of a licensed physical therapist, as part of the student's educational program;

(b) A physical therapist who is licensed to practice in another state or country from conducting or participating in a clinical residency under the supervision of a physical therapist licensed in Kentucky and for a period of not more than ninety (90) days;

(c) A physical therapist who is licensed to practice in another state or country from conducting or participating in the teaching of physical therapy in connection with an educational program and for a period of not more than ninety (90) days;~~[or]~~

(d) ***A physical therapist licensed in another state or country from performing therapy on members of the out-of-state sports or entertainment group they accompany to Kentucky; or***

(e) The practice of chiropractic as defined in KRS 312.015(3).

Section 6. KRS 327.060 is amended to read as follows:

The board shall issue a license to:

(1) An individual who holds a valid license from another state, who meets requirements specified in KRS 327.050 and who has no imposed or pending disciplinary actions.

(2) An individual who has been ***educated as a physical therapist outside the United States and who has***[~~trained in a foreign country, subject to the following requirements~~]:

(a) ***Completed the application process;***[~~Graduation from a physical therapy program.~~]

(b) ***Provided satisfactory evidence to the board that his or her education is substantially equivalent to the requirements for physical therapists educated in United States accredited educational programs;***[~~Evaluation of the individual's educational credentials by a credentials evaluation service acceptable to the board.~~]

(c) ***Provided written proof that the school of physical therapy education outside the United States is recognized by its own ministry of education;***[~~Approval by the board of the individual's educational credentials.~~]

(d) ***Successfully completed***[~~Successful completion of~~] the ***examinations***[~~examination~~] provided for in KRS 327.050***;***[~~.~~]

(e) ***Passed the board approved English language proficiency examination if English is not his or her native language;***[~~Demonstration of proficiency in the English language.~~]

(f) ***Successfully completed, prior to licensure, a board-approved, supervised practice period under the direct supervision of a physical therapist who holds an unrestricted Kentucky license of not less than three (3) months nor more than six (6) months***[~~Successful completion of one (1) year of board approved supervised practice under a physical therapist licensed under this chapter~~]. This requirement may be satisfied by ***at least three (3) months***[~~one (1) year~~] of supervised practice as a[~~ licensed~~] physical therapist in a state with license requirements comparable to or more stringent than those of Kentucky.

(g) Fulfilled the requirements of KRS 214.615(1);

(h) Provided proof of legal authorization to reside and seek employment in the United States or its territories;

(i) Provided proof of authorization to practice as a physical therapist without limitations in the country where the professional education occurred;

(j) Submitted to a prescreening process by an agency approved by the board; and

(k) Submitted educational credentials to the board for evaluation by an agency approved by the board.

(3) The board may approve an agency to prescreen applicants for initial licensure under this section.

(4) The board may approve one or more services to provide an evaluation of the applicant's educational credentials for board approval for licensing under this section.

(5) The board may waive the requirements of paragraphs (j) and (k) of subsection (2) of this section if the applicant is a graduate of a professional physical therapy education program pre-approved by the board.

Section 7. KRS 327.070 is amended to read as follows:

(1) The board, after due notice and an opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B may ***take any one (1) or a combination of the following actions against any licensee, certificate holder, or applicant:***

(a) Refuse to license or certify any applicant***;***

(b) [~~, and may~~]Refuse to renew the license or certificate of any person***;***

(c) [~~, and may~~]Suspend or revoke or place on probation the license or certificate of any person***;***

(d) Impose restrictions on the scope of practice of any person;

(e) [~~and may~~]Issue an administrative reprimand to any ***person;***[~~licensee or certificate holder.~~]

(f) Issue a private admonishment to any person; and

(g) Impose fines for violations of this chapter not to exceed two thousand five hundred dollars ($2,500).

(2) The following acts by a licensee, certificate holder, or applicant may be considered cause for disciplinary action:

(a)[~~(1)~~]***Indulgence***[~~Who indulges~~] in excessive use of alcoholic beverages or ***abusive use of controlled substances***[~~who is addicted to the use of narcotic drugs~~];

(b)[~~(2)~~]***Engaging***[~~Who has engaged~~] in***, permitting, or attempting to engage in or permit***[~~or permitted~~] the performance of substandard patient care by himself or by persons working under his supervision due to a deliberate or negligent act or failure to act, regardless of whether actual injury to the patient is established;

(c)[~~(3)~~]***Having***[~~Who has, in the judgment of the board,~~] engaged in ***or attempted to engage in*** a course of lewd or immoral conduct ***with any person:***[~~in connection with the delivery of health care services to patients;~~]

1. While that person is a patient of a health care facility defined by KRS 216B.015(10) where the physical

therapist or physical therapist's assistant provides physical therapy services; or

2. While that person is a patient or client of the physical therapist or physical therapist's assistant;

(d) Having sexual contact, as defined by KRS 510.010(7), without the consent of both parties, with an employee or coworker of the licensee or certificate holder;

(e) Performing acts of sexual harassment of an employee or coworker of the licensee or certificate holder;

(f)[~~(4)~~] ***Conviction***[~~Who has been convicted~~] of a felony or misdemeanor in the courts of this state or any other state, territory, or country which affects his ability to continue to practice competently and safely on the public. "Conviction," as used in this subsection, shall include a finding or verdict of guilt, an admission of guilt, or a plea of nolo contendere;

(g)[~~(5)~~]***Obtaining***[~~Who has obtained~~] or ***attempting***[~~attempted~~] to obtain a license or certificate by fraud or material misrepresentation or ***making***[~~who has made~~] any other false statement to the board;

(h)[~~(6)~~] ***Engaging***[~~Who engaged~~] in fraud or material deception in the delivery of professional services, including reimbursement, or ***advertising***[~~has advertised~~] services in a false or misleading manner;

(i)[~~(7)~~] ***Evidence***[~~Who is guilty, in the judgment of the board,~~] of gross negligence or gross ***incompetence***[~~incompetency~~] in his practice of physical therapy;

(j)[~~(8)~~] ***Documentation of being***[~~Who has been~~] declared mentally disabled by a court of competent jurisdiction and[~~ has~~] not thereafter ***having*** had his rights restored;

(k)[~~(9)~~]***Failing***[~~Who has failed~~] or ***refusing***[~~refused~~] to obey any lawful order or administrative regulation of the board;

(l)[~~(10)~~] ***Promoting***[~~Who has promoted~~] for personal gain an unnecessary device, treatment, procedure, or service, or ***directing***[~~who has directed~~] or ***requiring***[~~required~~] a patient to purchase a device, treatment, procedure, or service from a facility or business in which he has a financial interest; and

(m)[~~(11)~~] ***Being impaired by reason of a mental, physical, or other condition that impedes his or her ability to practice competently***[~~Who has been adjudged unfit to practice due to a physical or mental disability. When physical or mental capacity is at issue in a board proceeding, the board may order the practitioner to submit to a reasonable physical or mental examination. Failure to comply shall be grounds for the summary denial of an application or the summary revocation of the practitioner's license or certificate to be executed in accordance with KRS 13B.125~~].

(3) A private admonishment shall not be subject to disclosure to the public under KRS 61.878(1)(l). A private admonishment shall not constitute disciplinary action but may be used by the board for statistical purposes or in subsequent disciplinary action against the same licensee, certificate holder, or applicant.

Section 8. KRS 327.075 is amended to read as follows:

(1) The board may reinstate within three (3) years a license or certificate which has lapsed, upon payment of the prescribed renewal fee and, in addition, the payment of a reinstatement fee ***to be promulgated by the board by administrative regulations***[~~not to exceed twenty-five dollars ($25)~~].

(2) The board may reinstate a license or certificate which has been lapsed for more than three (3) years, upon showing that the applicant is able to practice with reasonable competency. In determining competency, the board may require the applicant to successfully complete all or any part of the required examination.

(3) The board may reinstate a license which has been suspended or revoked under provisions of this chapter, if after a hearing conducted in accordance with KRS Chapter 13B, the board determines the applicant is able to practice the profession with reasonable competency and is able to maintain the ethical code and standards of practice promulgated by administrative regulation. As a condition of reinstatement, the board may impose reasonable restrictions under which the licensee or certificate holder shall practice.

(4) Any person aggrieved by a final order of the board denying, suspending, or revoking his license or certificate may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 9. KRS 327.080 is amended to read as follows:

(1) All fees ***received***[~~collected~~] by the board ***and collected under this chapter or the administrative regulations adopted in accordance with this chapter*** shall be ***deposited with***[~~paid into~~] the State ***Treasurer***[~~Treasury~~] and credited to ***the revolving fund of the board, a trust and agency fund, to be used by the board in defraying the costs and expenses of the board in the administration of the provisions of this chapter. No part of this fund shall revert to the general fund of the Commonwealth***[~~an account for the payment of all lawful expenses of the board~~].

(2)[~~ Each member of the board shall be entitled to a per diem to be established by the board but not to exceed sixty dollars ($60) and his reasonable expenses for attending each meeting of the board or for representing the board in an official, board-approved capacity.~~

~~(3)~~] The board may employ ***an executive director and other***[~~such~~] personnel and ***may*** purchase such materials and supplies as it may deem necessary for the proper discharge of its duties[~~, all of which shall be paid for out of its account on vouchers certified by the chairman or, when authorized in writing by the chairman, on vouchers certified by the executive~~

~~secretary~~].

The Committee Amendment No. 1 to **HB 618** is as follows:

On page 1, line 11 before "***practitioners***" by inserting "***therapy***";

On page 10, line 9 by deleting "***examination***" and inserting "***examinations***";

On page 10, line 12 through line 15 by deleting "***Successfully completed, prior to licensure, a board-approved, supervised practice period under the direct supervision of a physical therapist who holds an unrestricted Kentucky license of not less than three (3) months nor more than six (6) months***" and by inserting in lieu thereof "***Successfully completed, prior to licensure, a board-approved, supervised practice period of not less than three (3) months nor more than six (6) months, under the direct supervision of a physical therapist who holds an unrestricted Kentucky license***";

On page 11, line 8 after "***paragraphs***" by inserting "***(c),***" and before "***and***" by inserting "***,***";

On page 12, line 20 by deleting "***Performing acts of sexual harassment of***" and inserting in lieu thereof "***Sexually harassing***".

HB 663, AN ACT relating to small and farm wineries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises or at off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small winery or off-premise retail site is located in wet territory;

(c) Sell by the drink or by the package on premises, at off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small winery or produced by a licensed farm winery, at retail to consumers if all sales sites are located in wet territory;

(d) Sell and transport wine produced on the premises of the small winery to wholesale license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders; and

(e) Consume on the premises wine produced by the small winery or a licensed farm winery and purchased by the drink or by the package at the licensed premises, if the small winery is located in wet territory.

(2) In accordance with administrative regulations promulgated by the board, the holder of a small winery license or farm winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import these products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory, KRS 242.230 to 242.430 shall apply***, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small winery in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.020, 242.030, 242.040, 242.060, 242.070, 242.080, 242.090, 242.100, 242.110, and 242.120. The proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed small winery or wineries)?" If the proposition is approved, a small winery within the precinct may sell wine in accordance with subsection (1) of this section***.

(4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.

(5) This section shall not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small winery, except as expressly stated in this section.

Section 2. KRS 243.156 is amended to read as follows:

(1) A farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses:

(a) Manufacture wines and bottle wines at a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, in an amount not to exceed twenty-five thousand (25,000) gallons in one (1) year;

(b) Serve on the premises or at an off-premise retail site complimentary samples of wine produced by it in amounts not to exceed four (4) ounces per patron per day, if the farm winery or off-premise retail site is located in wet territory;

(c) Sell wine produced on the premises of the farm winery or produced by a licensed small winery by the drink or by the package at retail to consumers, if the farm winery or off-premise retail site is located in wet territory and the wine produced by the small winery is made with Kentucky products;

(d) Sell and transport wine produced on the premises of the farm winery to wholesale liquor license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders;

(e) Serve complimentary samples or sell wine produced on the premises of the farm winery at another farm winery or small winery sales site, if the other farm winery or small winery sales site is located in wet territory;

(f) Consume on the premises wine produced by the farm winery or a small winery and purchased by the drink or by the package at the licensed premises, if the farm winery is located in wet territory; and

(g) Sell by the drink or by the package wine produced by the farm winery or a licensed small winery at a fair, festival, or other similar type of event, if the event is held in a wet territory.

(2) A licensed farm winery may establish one (1) off-premise retail sales outlet, if it is located in wet territory.

(3) All of the fresh fruits, fruit juices, or honey used to manufacture wine at a farm winery shall be grown or produced in the Commonwealth of Kentucky.

(4) If a licensed farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply***, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed farm winery in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.020, 242.030, 242.040, 242.060, 242.070, 242.080, 242.090, 242.100, 242.110, and 242.120. The proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed farm winery or wineries)?" If the proposition is approved, a farm winery within the precinct may sell wine in accordance with subsection (1) of this section***.

(5) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a farm winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.

(6) This section shall not exempt the holder of a farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from administrative regulations of the board, except as expressly stated in this section.

The Committee Substitute No. 1 to **HB 663** is as follows:

HB 663, AN ACT relating to small and farm wineries.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 243.155 is amended to read as follows:

(1) A small winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses, except that each off-premises retail site shall be separately licensed:

(a) Manufacture wines and bottle wines produced by that small winery in an amount not to exceed fifty thousand (50,000) gallons in one (1) year;

(b) Serve on the premises or at off-premise retail sites complimentary samples of wine produced by it in amounts not to exceed six (6) ounces per patron per day, if the small winery or off-premise retail site is located in wet territory;

(c) Sell by the drink or by the package on premises, at off-premise retail sites, and at fairs, festivals, and other similar types of events, wine produced on the premises of the small winery or produced by a licensed farm winery, at retail to consumers if all sales sites are located in wet territory;

(d) Sell and transport wine produced on the premises of the small winery to wholesale license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders;[~~and~~]

(e) Consume on the premises wine produced by the small winery or a licensed farm winery and purchased by the drink or by the package at the licensed premises, if the small winery is located in wet territory***; and***

(f) Transport or ship in-state to a customer wine produced by the small winery or a farm winery if:

1. The wine is purchased at the small winery;

2. The wine is transported by winery-owned vehicles or shipped by common carrier; and

3. The wine is:

a. Packaged in a gift basket with other products; or

b. Limited to two (2) cases of wine per customer.

(2) In accordance with administrative regulations promulgated by the board, the holder of a small winery license or farm winery license, upon affidavit filed with the board that grapes, grape juice, other fruits, other fruit juices, or honey produced in Kentucky are not obtainable, may apply for a permit to import these products. The burden of proof shall be upon the applicant to show that the grapes, grape juice, other fruits, other fruit juices, or honey are not available from any other source within the Commonwealth of Kentucky.

(3) If a licensed small winery is located in a dry territory, KRS 242.230 to 242.430 shall apply***, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed small winery in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. The proposition to be voted on shall state, "Are you in favor of the sale of wine at the (name of the licensed small winery or wineries)?" If the proposition is approved, a small winery within the precinct may sell wine in accordance with subsection (1) of this section***.

(4) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a small winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.

(5) This section shall not exempt the holder of a small winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from the administrative regulations of the board, nor from regulation by the board at all premises licensed by the small winery, except as expressly stated in this section.

Section 2. KRS 243.156 is amended to read as follows:

(1) A farm winery license shall authorize the licensee to perform the following functions without having to obtain separate licenses:

(a) Manufacture wines and bottle wines at a winery located on a Kentucky farm with a producing vineyard, orchard, or similar growing area, in an amount not to exceed twenty-five thousand (25,000) gallons in one (1) year;

(b) Serve on the premises or at an off-premise retail site complimentary samples of wine produced by it in amounts not to exceed four (4) ounces per patron per day, if the farm winery or off-premise retail site is located in wet territory;

(c) Sell wine produced on the premises of the farm winery or produced by a licensed small winery by the drink or by the package at retail to consumers, if the farm winery or off-premise retail site is located in wet territory and the wine produced by the small winery is made with Kentucky products;

(d) Sell and transport wine produced on the premises of the farm winery to wholesale liquor license holders and to retail package or retail drink license holders, if the wine has been offered for sale to wholesale license holders and the wine is sold at the wholesale price to the retail package or retail drink license holders;

(e) Serve complimentary samples or sell wine produced on the premises of the farm winery at another farm winery or small winery sales site, if the other farm winery or small winery sales site is located in wet territory;

(f) Consume on the premises wine produced by the farm winery or a small winery and purchased by the drink or by the package at the licensed premises, if the farm winery is located in wet territory;[~~ and~~]

(g) Sell by the drink or by the package wine produced by the farm winery or a licensed small winery at a fair, festival, or other similar type of event, if the event is held in a wet territory***; and***

(h) Transport or ship in-state to a customer wine produced by the farm winery or a small winery if:

1. The wine is purchased at the farm winery;

2. The wine is transported by winery-owned vehicles or shipped by common carrier; and

3. The wine is:

a. Packaged in a gift basket with other products; or

b. Limited to two (2) cases of wine per customer.

(2) A licensed farm winery may establish one (1) off-premise retail sales outlet, if it is located in wet territory.

(3) All of the fresh fruits, fruit juices, or honey used to manufacture wine at a farm winery shall be grown or produced in the Commonwealth of Kentucky.

(4) If a licensed farm winery is located in a dry territory, KRS 242.230 to 242.430 shall apply***, unless a local option election is held in accordance with the provisions of this subsection. A limited sale precinct election may be held in a precinct containing a licensed farm winery in a dry territory. The election shall be held in the same manner as prescribed by KRS 242.010 to 242.040 and 242.060 to 242.120. The proposition to be voted on shall state, "Are you in favor of the***

sale of wine at the (name of the licensed farm winery or wineries)?" If the proposition is approved, a farm winery within the precinct may sell wine in accordance with subsection (1) of this section.

(5) Other provisions of this chapter and KRS Chapter 244 notwithstanding, a farm winery license holder may also hold a restaurant wine license and a retail malt beverage license, provided the issuance of these licenses is in connection with the establishment and operation of a restaurant, hotel, inn, bed and breakfast, conference center, or any similar business enterprise the purpose of which is to promote viticulture, enology, and tourism.

(6) This section shall not exempt the holder of a farm winery license from the provisions of KRS Chapters 241, 242, 243, and 244, nor from administrative regulations of the board, except as expressly stated in this section.

Section 3. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of nine percent (9%) and upon all distributors of beer at the rate of nine percent (9%) of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, ***2010***~~[1999]~~, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky.

The Committee on Natural Resources and Environment reported **HB 105, HB 414,** with Committee Substitute attached thereto, **HB 579, HB 599,** with Committee Substitute attached thereto, and **SB 105** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 105, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 98-1247, dated September 15, 1998, which amends Executive Order 98-1050, dated August 6, 1998 relating to the Public Protection and Regulation Cabinet, Office of the Petroleum Storage Tank Environmental Assurance Fund, which: creates the Division of Legal Services to be headed by a General Counsel appointed by the Secretary and approved by the Governor pursuant to KRS 12.050 and KRS 12.210; creates the Division of Administrative Operations to be headed by a Division Director appointed by the Secretary pursuant to KRS 12.050; and, creates the Division of Technical Operations to be headed by a Division Director appointed by the Secretary pursuant to KRS 12.050.

HB 414, AN ACT relating to coal mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine ***assigned to him*** in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine;~~[and]~~ in~~[gassy]~~ mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) ***A***~~[It shall be permissible for a]~~ mine inspector ***shall***~~[to]~~ inspect any coal preparation plant or surface facility ***that is adjacent to or in close proximity to a licensed coal mine, regardless of ownership of the coal preparation plant or surface facility***~~[of any mining operation of coal including any overland coal belts]~~; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, ***coal preparation plant, or surface facility*** including any overland coal belts, at any reasonable time.

Section 2. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1~~[, 1953, and]~~ of each year~~[thereafter]~~, the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) ***Preparation plants and surface facilities, including overland coal belts adjacent to or in close proximity to a licensed mine but under separate management or ownership from the licensed mine, shall procure from the department a license to operate the preparation plant, surface facility, or overland coal belt. All provisions of this chapter and KRS Chapter 352 with respect to mine licenses and licensees shall be applicable in all respects to licenses for preparation plants and surface facilities, including overland coal belts.***

(4) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(5)~~[(4)]~~Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342~~[, and a certification from the secretary of the Revenue Cabinet that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131,]~~ are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the secretary of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the ***Franklin***~~[Fayette]~~ Circuit Court.

(6)~~[(5)]~~The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(7)~~[(6)]~~The department shall be authorized to seek injunctive relief for any violation of this section.

(8)~~[(7)]~~A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the secretary of revenue.

(9)~~[(8)]~~No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 3. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the Federal Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and is approved by the department;

(e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(f) "Board" means the Mining Board created in KRS 351.105;

(g) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(h) "Commissioner" means commissioner of the Department of Mines and Minerals;

(i) "Department" means the Department of Mines and Minerals;

(j) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(k) "Excavations and workings" means the excavated portions of a mine;

(l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(m) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(n) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976, all underground mines shall be classified as gassy or gaseous;

(o) "High voltage" means any voltage of one thousand (1,000) volts or more;

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(q) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t) "Low voltage" means up to and including six hundred sixty (660) volts;

(u) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(v) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management ***but***[~~and~~] which are administered as distinct units shall be considered separate mines;

(w) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(x) "Open-pit mine" shall include open excavations and open-cut workings including ***but not limited to*** auger ***operations and highwall mining systems***[~~mines~~] for the extraction of coal;

(y) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(z) "Permissible" ***refers to***[~~means that~~] any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration ***and which*** meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(aa) "Preshift examination" means the examination of ***a***[~~an underground~~] mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(bb) ***"Reportable accident" refers to a personal injury accident that causes any lost time, or an accident that prevents an employee from performing his regularly assigned duties on his next regularly scheduled shift;***

(cc) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(dd) "Serious accident" refers to a personal injury accident that creates a substantial risk of death, or that causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(ee)[~~(cc)~~] "Shaft" means a vertical opening through the strata that is[~~ or may be~~] used[~~,~~] in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ff)[~~(dd)~~] "Slope" means an inclined opening used for the same purpose as a shaft;

(gg)[~~(ee)~~] "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(hh)[~~(ff)~~] "Supervisory personnel" shall mean a person[~~ or persons~~] certified under the provisions of KRS Chapter 351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ii)[~~(gg)~~] "Tipple or ***preparation plant***[~~dumping point~~]" means the structure where coal is dumped or unloaded[~~ from the mine~~] car into railroad cars, trucks, wagons, or other means of conveyance;

(jj)[~~(hh)~~] "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(kk)[~~(ii)~~] "Working place" means the area of a coal mine inby the last open crosscut; and

(ll)[~~(jj)~~] "Working section" means[~~ all~~] areas of a coal mine from the ***dumping***[~~loading~~] point ***or tail end of the conveyor belt*** to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 4. KRS 352.020 is amended to read as follows:

(1) ***All coal mines shall be classified as gassy.*** The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(2) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine adequate ventilation. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one-half percent (19.5%) of oxygen, not more than one-half percent (0.5%) of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(3) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (2) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(4) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air.

(5) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete or other suitable material and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to

close automatically when unobstructed.

(6) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all trolley and feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

Section 5. KRS 352.170 is amended to read as follows:

(1) ~~[Within six (6) months after June 16, 1972,]~~All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.

(2) Flame safety lamps and approved electric lamps shall be in ***the*** charge of ***a competent***~~[some]~~ person designated by the licensee or superintendent.~~[Two (2) flame safety lamps shall be kept at every coal mine whether the mine liberates explosive gas or not, if the mine inspector and the commissioner deem it desirable.]~~ All mine foremen and fire bosses employed in~~[gassy]~~ mines shall, at all times, carry an~~[approved flame safety lamp or other]~~ approved device for the purpose of detecting the presence of explosive and dangerous gases or deficiencies of oxygen.

(3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 6. KRS 352.175 is amended to read as follows:

(1) All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the ***miner***~~[miners]~~ by the ***licensee***~~[coal operator]~~ at no cost to the miner.

(2) All miners shall wear protective hard-toe boots and approved hardhats while in or about a mine or mine-related facility.

(3) If a licensee requires a miner to wear special safety equipment or protective clothing beyond the requirements of KRS Chapter 351 and this chapter, the licensee shall provide the equipment or clothing to the miner at no cost to him.

Section 7. KRS 352.180 is amended to read as follows:

Whenever serious personal injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine foreman in charge of the mine, shall immediately give notice to the mine inspector and to the representative of the miner, stating the particulars of the accident, and if anyone is killed thereby to the commissioner. The mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner. The record shall be preserved with the other records of his office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths. ***All reportable accidents shall be reported, on a form prescribed by the commissioner, to the district office where the mine is located within ten (10) days following the accident.***

Section 8. KRS 352.201 is amended to read as follows:

(1) The roof and ribs of all active underground ***mines***~~[roadways, travelways, and working places]~~ shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form~~[within six (6) months after June 16, 1972,]~~ and shall be kept on file in the district office of the district where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished ***to*** the commissioner or his authorized representative and shall be available to the miners and their representatives.

(2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. ***Adequate safety***~~[Safety posts, jacks, or other approved]~~ devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(4) Roof bolt recovery for reuse shall not be permitted.

(5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs

before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

Section 9. KRS 352.241 is amended to read as follows:

(1) Explosives or detonators carried anywhere underground by any person shall be in containers constructed substantially of nonconductive material, maintained in good condition, and kept closed.

(2) When explosives or detonators are transported underground in cars moved by means of a locomotive or rope,[~~ or in shuttle cars,~~] they shall be in substantial covered cars or in special substantial covered containers used specifically for transporting detonators or explosives:

(a) The bodies and covers of the cars and containers shall be constructed or lined with nonconductive material;

(b) If explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent;

(c) Explosives, detonators, or other explosive items shall not be transported on the same trip with men;

(d) When explosives or detonators are transported in special cars or containers in cars, they shall be hauled in special trips not connected to any other trip. However, this does not prohibit the use of the additional cars as needed to lower a rope trip, or to haul supplies including timbers. Materials so transported shall not project above the top of the car. Exposed highly flammable materials such as[~~ hay,~~] oil[~~,~~] or grease shall not be hauled on the same trip with explosives; and

(e) Explosives or detonators shall not be hauled into or out of a mine within five (5) minutes preceding or following a man trip or any other trip.

(3) Explosives and detonators shall be transported underground by belt only under the following conditions:

(a) In the original and unopened case, in special closed cases constructed of nonconductive material, or in suitable individual containers;

(b) Clearance requirements shall be the same as those for transporting men on belts;

(c) Suitable loading and unloading stations shall be provided; and

(d) Stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading of explosives and detonators.

(4) Neither explosives nor detonators shall be transported on flight or shaking conveyors, scrapers, mechanical loading machines, locomotives, cutting machines, drill tracks, or any self-propelled mobile equipment. However, this does not prohibit the transportation of explosives or detonators in special substantial covered containers as ***described***[~~used~~] in subsection (2) of this section[~~ in shuttle cars or in equipment designed especially to transport explosives or detonators~~].

(5) When supplies of explosives and detonators for use in one (1) or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five (25) feet from roadways and power wires, and in a reasonably dry, well-rock-dusted location protected from falls of roof. In pitching beds, where it is not possible to comply with the location requirement, the boxes shall be placed in niches cut into the solid coal or rock.

(6) When explosives or detonators are stored in the section, they shall be kept preferably in separate boxes or magazines not less than five (5) feet apart; if kept in the same box or magazine, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight (48) hour supply of explosives or detonators shall be stored underground in any one (1) section in the boxes or magazines.

(7) Explosives and detonators stored near the working faces shall be in separate closed containers, and shall be in a location out of line of blast not less than fifty (50) feet from the face and fifteen (15) feet from any pipeline, powerline, rail, or conveyor; except that if kept in niches in the rib, the distance from pipeline, powerline, rail, or conveyor shall be at least fifteen (15) feet. Explosives and detonators, when stored, shall be separated by a distance of at least ten (10) feet.

(8) Explosives and detonators shall be kept in their containers until immediately before use at the working faces.

(9) Only nonmetallic tools shall be used for opening wooden explosives containers. Tools or other materials shall not be stored with explosives or detonators.

(10) All explosives used[~~ underground~~] in underground mines except in sinking shafts and slopes from the surface shall be of the permissible type, specifically designed and manufactured for underground use, and shall be used as follows:

(a) Fired only with electric detonators of proper strength;

(b) Fired with a permissible shot-firing unit of adequate capacity to fire all caps; however, if firing is done from the surface when all men are out of the mine, the firing unit does not need to meet specifications of permissibility;

(c) Where the coal is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut;

(d) Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged;

(e) All blasting charges shall have a burden of at least eighteen (18) inches in all directions if the height of the seam permits;

(f) Boreholes shall be stemmed with at least twenty-four (24) inches of incombustible material, or at least one-half (1/2) of the length of the hole shall be stemmed if the hole is less than four (4) feet in depth unless other permissible stemming devices or methods are used;

(g) Examinations for gas shall be made immediately before firing each shot or group of multiple shots and after blasting is completed;

(h) Shots shall not be fired in any place where methane can be detected with a flame safety lamp or other approved device when tested at a point not less than twelve (12) inches from the roof, face or rib;

(i) Charges exceeding one and one-half (1-1/2) pounds, but not exceeding three (3) pounds, shall be used only if boreholes are six (6) feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridges touching the back of the hole and the stemming respectively. However the three (3) pound limit does not apply to special solid rock work if the mine is evacuated or if approved by the department;

(j) Shots shall be charged and fired by certified shotfirers designated by the mine foreman;

(k) Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees;

(l) Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one (1) end;

(m) The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable;

(n) Shots shall not be fired from the power of signal circuit while any men are in the mine;

(o) The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots;

(p) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through;

(q) Mixed types or brands of explosives shall not be charged or fired in any borehole;

(r) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine;

(s) Before blasting, the continuity of the blasting circuits shall be tested with a permissible blaster's galvanometer specifically designed for this purpose;

(t) No instantaneous detonator shall be connected in a circuit containing short-period delay detonators. The first charge in a sequence shall be initiated by a short period delay detonator having a nominal delay period of not less than twenty-five (25) milliseconds;

(u) All short period delay detonators shall be wired in series;

(v) Each primer shall be made with care to insure that the detonator is inserted properly and does not protrude from the wrapping and that the leg wires are secured to the cartridge in a manner so that the detonator will not become dislodged in handling and charging;

(w) In making a primer, a powder punch of nonsparking material shall be used. The hole in the cartridge shall be at least one-half (1/2) inch deeper than the detonator used. Rolling the end of a cartridge to receive a detonator is prohibited;

(x) The primer shall be placed in the borehole first pointing outward and the rest of the charge shall be pushed in a continuous train to the back of the borehole to prevent cuttings from getting between the cartridges; and

(y) Suitable clean-up of loose coal and coal dust with adequate rock-dusting or wetting down at the face of each working place shall be completed prior to charging shot holes.

(11) Blasting cables shall be:

(a) Well insulated and as long as may be necessary to permit the shotfirer to get in a safe place around a corner;

(b) Short-circuited at the battery end until ready to attach to the blasting unit;

(c) Staggered as to length or the ends kept well separated when attached to the detonator leg wires; and

(d) Kept clear of power wires and all other possible sources of active or stray electric current.

(12) Where misfires occur with electric detonators, a waiting period of at least five (5) minutes shall elapse before anyone returns to the shot. After the failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

(13) Explosives shall be removed by firing a separate charge at least two (2) feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer

after the stemming has been washed out.

(14) A very careful search of the working place, and, if necessary, of the blasted material after it reaches the surface shall be made after blasting a misfired hole, to recover any undetonated explosive.

(15) The handling of a misfired shot shall be under the direct supervision of ***a certified***[~~the~~] mine foreman[~~ or a competent person designated by him~~].

(16) Where compressed air is used for blasting or breaking coal, the following shall apply:

(a) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel airlines tested to withstand an approximate pressure of twenty thousand (20,000) pounds per square inch;

(b) Air lines shall be grounded at the compressor and, if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, water lines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track;

(c) Shutoff valves shall be installed every one thousand (1,000) feet in all compressed-air blasting lines and in all branch lines at a point near the main lines;

(d) Compressed-air blasting lines shall be protected at places where equipment passes over, under, or adjacent to them;

(e) Steel, copper, or other lines shall not be handled or repaired when air pressure is in the line;

(f) Air lines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found;

(g) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization;

(h) Blowdown valves shall not be less than forty-five (45) feet from the face and shall be around a right angle;

(i) Holes for compressed-air tubes shall be within the limits of the cut;

(j) When blowdown valves are opened to discharge the tube, they shall remain open until time to place the tube in the next borehole except where shear-strip or shear-pin tubes are used;

(k) After breaking down the coal in any one (1) place, the tube shall be disconnected at once from the air line and not reconnected until ready to be used in the next place;

(l) When a differential-pressure-type tube fails to discharge, the line leading to the tube shall be disconnected at the blowdown valve, and the tube shall be dragged by means of the line to an inactive place, marked with warning signs, and left one (1) hour before any repair work is done thereon; and

(m) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle while coal breaking is in progress.

Section 10. KRS 352.280 is amended to read as follows:

In all mines the licensee or superintendent shall employ one (1) or more certified fire bosses or other properly certified persons. The fire boss or other properly certified person shall examine carefully within three (3) hours before each shift enters the mine, every working place, all places adjacent to live workings, every roadway where persons are required to work or travel, all abandoned panels on the intake, every seal on the intake, and all roof falls near active workings on the intake and on the working sections. Before proceeding with the examination he shall see that the air current is traveling its proper course. In making the examination he shall use an[~~ approved safety lamp or other~~] approved device ***for the purpose of detecting the presence of explosive and dangerous gases or deficiencies of oxygen***. The fire boss or other properly certified person shall examine for all dangers in all portions of the ***mine***[~~mines~~] under his charge, and after examination he shall leave at or as close as possible to the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty. He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he shall place a danger ***sign***[~~signal~~] across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The ***danger sign***[~~signal~~] shall be sufficient warning for persons not to enter. When the mine is idle and workmen are required to go into the mine, the section, portion, or part of the mine entered must be inspected by a fire boss or other properly certified person within three (3) hours before the workmen enter. Each week, the fire boss or some other certified person designated by the mine foreman shall examine each seal on the return, all main intake and return entries, and all escapeways.

Section 11. KRS 352.300 is amended to read as follows:

(1) The mine foreman and the fire boss shall, at or near the main entrance to the mine, provide a permanent station with a ***suitable preshift examination board describing the conditions of the mine***[~~proper danger signal, designated by suitable letters and colors placed thereon, and, if the working portions are one (1) mile or more from the entrance to the mine or from the bottom of the shaft or slope, a station of suitable dimensions for the use of the fire boss may be erected by the mine foreman in a location approved by the inspector~~].

(2) No person, except the mine foreman, and in case of necessity other persons as are designated by him, and under his direct supervision for the purpose of correcting the dangerous condition, shall pass a danger ***sign***[~~signal~~] until the dangerous

condition has been corrected. No person shall enter a mine until the mine has been examined by a fire boss and~~[the mine or the portions of it beyond the fire boss station]~~ reported by him to be safe.

(3) The fire boss shall not allow any other person to enter or remain in any portion of the mine through which a dangerous accumulation of gas is being passed into the ventilating current from any portion of the mine. He shall report to the mine foreman at once any violations of KRS 352.280 to 352.310.

(4) No person except a mine foreman, assistant mine foreman, fire boss or person designated by the mine foreman under subsection (2) of this section, shall pass or remove any danger ***sign***~~[signal]~~ before the mine has been examined and reported to be safe.

(5) No person shall pass or remove any danger ***sign***~~[signal]~~ without permission from the mine foreman, the assistant mine foreman, or the fire boss.

(6) If any mine foreman has knowledge of a violation of subsection (4) or (5) of this section, he shall immediately notify the licensee or superintendent who shall notify the mine inspector, in writing. The mine inspector shall then immediately institute proceedings against the offender.

Section 12. KRS 352.371 is amended to read as follows:

Whenever any working place approaches within fifty (50) feet of abandoned areas in the mine as shown by surveys made and certified by a ***professional***~~[registered]~~ engineer, or within two hundred (200) feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred (200) feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty (20) feet in advance of the working face of the working place and shall be continually maintained to a distance of at least ten (10) feet in advance of the advancing working face. When there is more than one (1) borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than eight (8) feet apart in the rib of the working place to a distance of at least twenty (20) feet and at an angle of forty-five (45) degrees before additional cuts are taken. Rib holes shall be drilled in one (1) or both ribs of the working place as may be necessary for adequate protection of miners in such place.

Section 13. KRS 352.380 is amended to read as follows:

In case of the death or resignation of a mine foreman, the superintendent shall select a ~~[competent]~~certified ***mine foreman to assume the duties of his predecessor***~~[man, if one (1) is available, and if not, he may temporarily select any other competent man who, if approved by the mine inspector and the commissioner, may serve until the next examination. He shall, while acting as mine foreman, have the same duties and be liable to the same penalties]~~.

The Committee Substitute No. 1 to **HB 414** is as follows:

HB 414, AN ACT relating to coal mine safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 351.140 is amended to read as follows:

Each mine inspector shall give his entire time and attention to the duties of his office, which shall consist of the following:

(1) Inspecting mines and aiding, under the direction of the commissioner, in carrying out and enforcing the provisions of the law relating to the inspection of mines;

(2) Training officials and workmen in and about the mines in first aid and mine rescue methods;

(3) Advising officials and workmen in methods pertaining to safety in all its phases and in methods pertaining to the prevention of mine fires and explosions;

(4) Taking charge of mine rescue and recovery work whenever a mine fire, mine explosion or other serious accident occurs within his district, and the commissioner is not present, and assisting in such work in other districts when so directed by the commissioner;

(5) Reopening mines or portions of mines that have been sealed on account of fire or any other cause, when directed by the commissioner to do so;

(6) Inspecting each mine ***assigned to him*** in his district at least once every six (6) months, or more often if practicable and if funds permit, and whenever any danger to the workmen may exist; making a personal examination of the interior of each mine with respect to ventilation, drainage, roof control, blasting, electricity, escapeways, and general security, and also a personal examination of the outside facilities of the mine;~~[and]~~ in~~[gassy]~~ mines below the water table, inspections shall be more frequent, and as often as practical whenever any danger to workmen is indicated by a previous inspection. Such inspections shall involve at least two (2) inspectors. The inspectors shall locate themselves in different sections of the mine in order to determine the effectiveness and reliability of the ventilation system. Each section of the mine shall be so inspected;

(7) It shall be permissible for a mine inspector to inspect any coal preparation plant or surface facility of any mining operation

of coal including any overland coal belts; and

(8) A mine inspector shall have the express authority to enter upon the premises of and inspect any coal mine, including any overland coal belts, at any reasonable time.

Section 2. KRS 351.175 is amended to read as follows:

(1) The operation of a coal mine in Kentucky is a privilege granted by the Commonwealth of Kentucky to a licensee who satisfies the requirements of this section and demonstrates that the mine is or will be operated in a safe manner and in accordance with the laws of this Commonwealth.

(2) Within forty-five (45) days after January 1[~~, 1953, and~~] of each year[~~ thereafter~~], the owner, operator, lessee, or licensee of each mine shall procure from the department a license to operate the mine, and the license shall not be transferable. Any owner, operator, lessee, or licensee who assumes control of a mine, opens a new mine, or reopens an abandoned mine during any calendar year shall procure a license before mining operations are begun.

(3) The license shall be in printed form as the commissioner may prescribe and when issued shall be kept posted at a conspicuous place near the main entrance of the mine.

(4) Requests for a license shall be made to the department and shall be accompanied by a United States postal money order or cashier's check drawn in favor of the State Treasurer in an amount established by administrative regulations of a minimum of one hundred dollars ($100) and a maximum of fifteen hundred dollars ($1,500). When the annual report of the licensee and the annual mine map, as required by KRS 351.170 and 352.450, together with a certification from the commissioner of the Department of Workers' Claims that the applicant for license has presented positive proof of compliance with the provisions of KRS Chapter 342[~~, and a certification from the secretary of the Revenue Cabinet that the applicant is not a "delinquent taxpayer" as defined in KRS Chapter 131,~~] are properly submitted to the department, the license shall be issued. The commissioner or his accredited agents shall have the authority to extend the time for filing of the map not to exceed an additional forty-five (45) days. Upon receipt of withdrawal of the certification of the commissioner of the Department of Workers' Claims, or upon receipt of notice from the secretary of revenue that the licensee is a "delinquent taxpayer," as defined in KRS Chapter 131, the department shall forthwith revoke any license issued. Revocation of a license shall be an administrative function of the department. Appeal of the revocation of a license shall lie in the ***Franklin***[~~Fayette~~] Circuit Court.

(5) The mine inspector shall have the authority to stop production or close any mine whose operator fails to procure a license or fails to furnish a certification of workers' compensation coverage as required under this section.

(6) The department shall be authorized to seek injunctive relief for any violation of this section.

(7) A license which has been revoked under the "delinquent taxpayer" provision shall not be reissued until a written tax clearance has been received from the secretary of revenue.

(8) No mine underlying a cemetery shall be licensed by the commissioner unless two-thirds (2/3) of the governing body of that cemetery vote in approval of the operation. The application for a license shall contain an affidavit setting forth the approval of the cemetery's governing body. This subsection applies only to those cemeteries with governing bodies.

Section 3. KRS 352.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Abandoned workings" means excavations, either caved or sealed, that are deserted and in which further mining is not intended, or open workings which are ventilated and not inspected regularly;

(b) "Active workings" means all places in a mine that are ventilated and inspected regularly;

(c) "Approved" means that a device, apparatus, equipment, machinery, or practice employed in the mining of coal has been approved by the commissioner of the Department of Mines and Minerals;

(d) "Approved safety lamp" means any bonneted lamp that bears the approval plate of the Federal Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration and is approved by the department;

(e) "Assistant mine foreman" means a certified person designated to assist the mine foreman in the supervision of a portion or the whole of a mine or of the persons employed therein;

(f) "Board" means the Mining Board created in KRS 351.105;

(g) "Commercial mine" means any coal mine from which coal is mined for sale, commercial use, or exchange. This term shall in no instance be construed to include a mine where coal is produced for own use;

(h) "Commissioner" means commissioner of the Department of Mines and Minerals;

(i) "Department" means the Department of Mines and Minerals;

(j) "Drift" means an opening through strata or coal seams with opening grades sufficient to permit coal to be hauled therefrom, or which is used for the purpose of ventilation, drainage, ingress, egress, and other purposes in connection with the mining of coal;

(k) "Excavations and workings" means the excavated portions of a mine;

(l) "Face equipment" means mobile or portable mining machinery having electric motors or accessory equipment normally installed or operated inby the last open crosscut in any entry or room;

(m) "Fire boss" (often referred to as mine examiner) means a person certified as a mine foreman or assistant mine foreman who is designated by management to examine a mine or part of a mine for explosive gas or other dangers before a shift crew enters;

(n) "Gassy mine" means any mine in which there is a record of methane having been ignited, or having been detected with a permissible flame safety lamp, or where methane in the amount of twenty-five hundredths percent (0.25%) or more has been found not less than twelve (12) inches from the roof, face, or rib, using approved methane testers or detectors or by analysis, provided, nevertheless, that on and after June 19, 1976, all underground mines shall be classified as gassy or gaseous;

(o) "High voltage" means any voltage of one thousand (1,000) volts or more;

(p) "Imminent danger" means the existence of any condition or practice which could reasonably be expected to cause death or serious physical harm before the condition or practice can be abated;

(q) "Inactive workings" shall include all portions of a mine in which operations have been suspended for an indefinite period, but have not been abandoned;

(r) "Intake air" means air that has not passed through the last working place of the split or by the unsealed entrances to abandoned workings and by analysis contains not less than nineteen and one-half percent (19.5%) of oxygen, nor more than one-half of one percent (0.5%) of carbon dioxide, no dangerous quantities of flammable gas, and no harmful amounts of poisonous gas or dust;

(s) "Licensee" means any owner, operator, lessee, corporation, partnership, or other person who procures a license from the department to operate a coal mine;

(t) "Low voltage" means up to and including six hundred sixty (660) volts;

(u) "Medium voltage" means voltages greater than six hundred sixty (660) and up to nine hundred ninety-nine (999) volts;

(v) "Mine" means any open pit or any underground workings from which coal is produced for sale, exchange, or commercial use, and all shafts, slopes, drifts, or inclines leading thereto, and includes all buildings and equipment, above or below the surface of the ground, used in connection with the workings. Workings that are adjacent to each other and under the same management ***but***[~~and~~] which are administered as distinct units shall be considered separate mines;

(w) "Mine foreman" means a certified person whom the licensee or superintendent places in charge of the workings of the mine and of persons employed therein;

(x) "Open-pit mine" shall include open excavations and open-cut workings including ***but not limited to*** auger ***operations and highwall mining systems***[~~mines~~] for the extraction of coal;

(y) "Operator" means the licensee, owner, lessee, or other person who operates or controls a coal mine;

(z) "Permissible" ***refers to***[~~means that~~] any equipment, device, or explosive that has been approved by the United States Bureau of Mines, the Mining Enforcement and Safety Administration, or the Mine Safety and Health Administration ***and which*** meets all requirements, restrictions, exceptions, limitations, and conditions attached to the classification;

(aa) "Preshift examination" means the examination of ***a***[~~an underground~~] mine or part of a mine where miners are scheduled to work or travel, and shall be conducted not more than three (3) hours before any on-coming shift;

(bb) ***"Reportable accident" refers to a personal injury accident that causes any lost time, or an accident that prevents an employee from performing his regularly assigned duties on his next regularly scheduled shift;***

(cc) "Return air" means air that has passed through the last active working place on each split, or air that has passed through abandoned, inaccessible, or pillared workings;

(dd) "Serious accident" refers to a personal injury accident that creates a substantial risk of death, or that causes serious and prolonged disfigurement, prolonged impairment of health, or prolonged loss or impairment of the function of any bodily organ;

(ee)[~~(cc)~~] "Shaft" means a vertical opening through the strata that is[~~ or may be~~] used[~~,~~] in connection with the mining of coal, for the purpose of ventilation or drainage, or for hoisting men, coal, or materials;

(ff)[~~(dd)~~] "Slope" means an inclined opening used for the same purpose as a shaft;

(gg)[~~(ee)~~] "Superintendent" means the person who, on behalf of the licensee, has immediate supervision of one (1) or more mines;

(hh)[~~(ff)~~] "Supervisory personnel" shall mean a person[~~ or persons~~] certified under the provisions of KRS Chapter

351 to assist in the supervision of a portion or the whole of the mine or of the persons employed therein;

(ii)~~[(gg)]~~ "Tipple or dumping point" means the structure where coal is dumped or unloaded from the mine car into railroad cars, trucks, wagons, or other means of conveyance;

(jj)~~[(hh)]~~ "Working face" means any place in a coal mine at which the extraction of coal from its natural deposit in the earth is performed during the mining cycle;

(kk)~~[(ii)]~~ "Working place" means the area of a coal mine inby the last open crosscut; and

(ll)~~[(jj)]~~ "Working section" means~~[all]~~ areas of a coal mine from the ***dumping***~~[loading]~~ point ***or tail end of the conveyor belt*** to and including the working faces.

(2) The definitions in KRS 351.010 apply also to this chapter, unless the context requires otherwise.

(3) Except as the context otherwise requires, this chapter applies only to commercial mines as defined in KRS 351.010.

Section 4. KRS 352.020 is amended to read as follows:

(1) ***All underground coal mines shall be classified as gassy.*** The ventilation of all underground coal mines shall be produced by means of mechanically operated fans located outside the mine in fireproof housing and offset at least fifteen (15) feet to one (1) side or above the opening, protected by explosion doors or weak walls and arranged so that ventilating current may be reversed if necessary. The fan shall be installed so as to prevent recirculation of mine air. The main fan shall be operated from a power circuit independent from the mine circuit. If inside auxiliary fans are required to ventilate working places the commissioner must first approve the installation.

(2) The licensee, superintendent, or foreman of every coal mine worked by shaft, slope, or drift shall provide and maintain for every mine adequate ventilation. Each active working section shall be ventilated by a separate split of intake air. In all mines the quantity of air passing through the last open crosscut between the intake and return in any pair or sets of entries shall be not less than nine thousand (9,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. All working faces from which coal is being cut, mined, or loaded in a working section between the intake and return airway entries shall be ventilated with a minimum quantity of three thousand (3,000) cubic feet of air per minute and as much more as is necessary to dilute and render harmless and carry away flammable and harmful gases. The quantity of air reaching the last crosscut in pillar sections may be less than nine thousand (9,000) cubic feet of air per minute if at least nine thousand (9,000) cubic feet of air per minute is being delivered to the intake of the pillar line. The air current shall under any conditions have a sufficient volume and velocity to reduce and carry away smoke from blasting and any flammable or harmful gases. All active underground working places in a mine shall be ventilated by a current of air containing not less than nineteen and one-half percent (19.5%) of oxygen, not more than one-half percent (0.5%) of carbon dioxide, and no harmful quantities of other noxious or poisonous gases.

(3) All mines shall maintain at least nine thousand (9,000) cubic feet of air per minute at the points mentioned in subsection (2) of this section. The commissioner shall have the authority to require additional air in any mine when he deems it necessary for the safety of the employees.

(4) When the air from a split has passed through and has ventilated all the working places in an air split of a mine it shall then be designated as return air.

(5) As working places advance, breakthroughs for air shall be made not more than ninety (90) feet apart, except that where longwall or modern systems of mining are used the commissioner may approve a greater distance between breakthroughs or the method of ventilating such longwall or modern systems of mining. If any breakthroughs between intake and return airways are not required for the passage of air, they shall be closed with stoppings. All permanent stoppings shall be substantially built with suitable incombustible or fire resistant material***, such as concrete, concrete block, brink, cinderblock, tile, or steel,*** subject to the approval of the mine inspector so as to keep the working places well ventilated. All brattice cloth and ventilation tubing shall be flame resistant. Doors on the main haulways shall be avoided where practicable, and overcasts, built of concrete***, concrete block, brick, cinderblock, tile, or steel***~~[or other suitable material]~~ and of ample strength, shall be adopted. Where doors are used they shall be built in a substantial manner, and shall be hung so as to close automatically when unobstructed.

(6) In a mine where methane can be found to an extent of one percent (1%) or more on the return of any one (1) split, the inspector, with the approval of the commissioner may require the mine to be ventilated by the exhaust system, requiring the haulage roads and all trolley and feed wires to be located on the intake air and the electrical system to be so arranged that no wires carrying electrical current shall be on return air. A period of not more than ninety (90) days from date of notification shall be allowed to make the changes required.

Section 5. KRS 352.170 is amended to read as follows:

(1) ~~[Within six (6) months after June 16, 1972,]~~All underground mines shall be worked exclusively by the use of approved electric lamps for personal lighting.

(2) Flame safety lamps and approved electric lamps shall be in ***the*** charge of ***a competent***~~[some]~~ person designated by the licensee or superintendent.~~[Two (2) flame safety lamps shall be kept at every coal mine whether the mine liberates explosive gas or not, if the mine inspector and the commissioner deem it desirable.]~~ All mine foremen and fire bosses

employed in~~[gassy]~~ mines shall, at all times, carry an~~[approved flame safety lamp or other]~~ approved device for the purpose of detecting the presence of explosive and dangerous gases or deficiencies of oxygen.

(3) No person shall at any time carry into any mine any intoxicants. No person shall at any time enter any underground mine with matches, pipes, cigars, cigarettes, or any device for making lights or fire not authorized or approved, and the licensee shall at frequent intervals search, or cause to be searched, any person entering or about to enter the mine or inside the mine, to prevent the person from taking, carrying, or using the articles therein.

Section 6. KRS 352.175 is amended to read as follows:

(1) All miners shall wear safety glasses as needed. The safety glasses shall be supplied to the ***miner***~~[miners]~~ by the ***licensee***~~[coal operator]~~ at no cost to the miner.

(2) All miners shall wear protective hard-toe boots and approved hardhats while in or about a mine.

Section 7. KRS 352.180 is amended to read as follows:

Whenever serious personal injury or loss of life occurs in a mine or in the machinery connected therewith or whenever a fire, explosion, or other serious accident occurs, the superintendent of the mine, or, if he is absent, the mine foreman in charge of the mine, shall immediately give notice to the mine inspector and to the representative of the miner, stating the particulars of the accident, and if anyone is killed thereby to the commissioner. The mine inspector shall immediately go to the scene of the accident and make an investigation and suggestions and render the assistance as he deems necessary for the future safety of the employees, investigate the cause of the fire, explosion, or accident, make a record thereof, and forward it to the commissioner. The record shall be preserved with the other records of his office. To aid in making the investigations, the commissioner or the mine inspector may compel the attendance of witnesses and administer oaths. ***All reportable accidents shall be reported, on a form prescribed by the commissioner, to the district office where the mine is located within ten (10) days following the accident.***

Section 8. KRS 352.201 is amended to read as follows:

(1) The roof and ribs of all active underground ***mines***~~[roadways, travelways, and working places]~~ shall be supported or otherwise controlled adequately to protect persons from falls of the roof or ribs. A roof control plan and revision thereof suitable to the roof conditions and mining system of each mine and approved by the commissioner or his authorized representative shall be adopted and set out in printed form~~[within six (6) months after June 16, 1972,]~~ and shall be kept on file in the district office of the district where the mine is located. The plan shall show the type of support and spacing approved by the commissioner. No person shall proceed beyond the last permanent support unless adequate temporary support is provided. A copy of the plan shall be furnished ***to*** the commissioner or his authorized representative and shall be available to the miners and their representatives.

(2) The method of mining followed in any mine shall not expose the miner to unusual dangers from roof falls caused by excessive widths of rooms and entries or faulty pillar recovery methods.

(3) The licensee, in accordance with the approved plan, shall provide at or near each working face and at other locations in the mine as the commissioner or his authorized representative may prescribe an ample supply of suitable materials of proper size with which to secure the roof of all working places in a safe manner. ***Adequate safety***~~[Safety posts, jacks, or other approved]~~ devices shall be used to protect the workmen when roof material is being taken down, crossbars are being installed, roof bolt holes are being drilled, roof bolts are being installed, and in other circumstances that may be appropriate. Loose roof and overhanging or loose faces and ribs shall be taken down or supported. Except in the case of recovery work, supports knocked out shall be replaced promptly.

(4) Roof bolt recovery for reuse shall not be permitted.

(5) Where workmen are exposed to danger from falls of roof, face, and ribs they shall examine and test the roof, face, and ribs before any other work is performed or machinery is started, and as frequently thereafter as may be necessary to insure safety. When dangerous conditions are found, they shall be corrected immediately.

Section 9. KRS 352.241 is amended to read as follows:

(1) Explosives or detonators carried anywhere underground by any person shall be in containers constructed substantially of nonconductive material, maintained in good condition, and kept closed.

(2) When explosives or detonators are transported underground in cars moved by means of a locomotive or rope,~~[or in shuttle cars,]~~ they shall be in substantial covered cars or in special substantial covered containers used specifically for transporting detonators or explosives:

(a) The bodies and covers of the cars and containers shall be constructed or lined with nonconductive material;

(b) If explosives and detonators are hauled in the same explosives car or in the same special container, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent;

(c) Explosives, detonators, or other explosive items shall not be transported on the same trip with men;

(d) When explosives or detonators are transported in special cars or containers in cars, they shall be hauled in special trips not connected to any other trip. However, this does not prohibit the use of the additional cars as needed to lower a rope trip, or to haul supplies including timbers. Materials so transported shall not project above the top of the car. Exposed highly flammable materials such as~~[hay,]~~ oil~~[,]~~ or grease shall not be hauled on the same trip with explosives; and

(e) Explosives or detonators shall not be hauled into or out of a mine within five (5) minutes preceding or following a man trip or any other trip.

(3) Explosives and detonators shall be transported underground by belt only under the following conditions:

(a) In the original and unopened case, in special closed cases constructed of nonconductive material, or in suitable individual containers;

(b) Clearance requirements shall be the same as those for transporting men on belts;

(c) Suitable loading and unloading stations shall be provided; and

(d) Stop controls shall be provided at loading and unloading points, and an attendant shall supervise the loading and unloading of explosives and detonators.

(4) Neither explosives nor detonators shall be transported on flight or shaking conveyors, scrapers, mechanical loading machines, locomotives, cutting machines, drill tracks, or any self-propelled mobile equipment. However, this does not prohibit the transportation of explosives or detonators in special substantial covered containers as ***described***~~[used]~~ in subsection (2) of this section~~[in shuttle cars or in equipment designed especially to transport explosives or detonators]~~.

(5) When supplies of explosives and detonators for use in one (1) or more sections are stored underground, they shall be kept in section boxes or magazines of substantial construction with no metal exposed on the inside, located at least twenty-five (25) feet from roadways and power wires, and in a reasonably dry, well-rock-dusted location protected from falls of roof. In pitching beds, where it is not possible to comply with the location requirement, the boxes shall be placed in niches cut into the solid coal or rock.

(6) When explosives or detonators are stored in the section, they shall be kept preferably in separate boxes or magazines not less than five (5) feet apart; if kept in the same box or magazine, they shall be separated by at least a four (4) inch substantially fastened hardwood partition or the equivalent. Not more than a forty-eight (48) hour supply of explosives or detonators shall be stored underground in any one (1) section in the boxes or magazines.

(7) Explosives and detonators stored near the working faces shall be in separate closed containers, and shall be in a location out of line of blast not less than fifty (50) feet from the face and fifteen (15) feet from any pipeline, powerline, rail, or conveyor; except that if kept in niches in the rib, the distance from pipeline, powerline, rail, or conveyor shall be at least fifteen (15) feet. Explosives and detonators, when stored, shall be separated by a distance of at least ten (10) feet.

(8) Explosives and detonators shall be kept in their containers until immediately before use at the working faces.

(9) Only nonmetallic tools shall be used for opening wooden explosives containers. Tools or other materials shall not be stored with explosives or detonators.

(10) All explosives used~~[underground]~~ in underground mines except in sinking shafts and slopes from the surface shall be of the permissible type, specifically designed and manufactured for underground use, and shall be used as follows:

(a) Fired only with electric detonators of proper strength;

(b) Fired with a permissible shot-firing unit of adequate capacity to fire all caps; however, if firing is done from the surface when all men are out of the mine, the firing unit does not need to meet specifications of permissibility;

(c) Where the coal is cut, shots shall not be fired if the blast hole is drilled beyond the limits of the cut;

(d) Boreholes shall be cleaned, and they shall be checked to see that they are placed properly and are of correct depth, in relation to the cut, before being charged;

(e) All blasting charges shall have a burden of at least eighteen (18) inches in all directions if the height of the seam permits;

(f) Boreholes shall be stemmed with at least twenty-four (24) inches of incombustible material, or at least one-half (1/2) of the length of the hole shall be stemmed if the hole is less than four (4) feet in depth unless other permissible stemming devices or methods are used;

(g) Examinations for gas shall be made immediately before firing each shot or group of multiple shots and after blasting is completed;

(h) Shots shall not be fired in any place where methane can be detected with a flame safety lamp or other approved device when tested at a point not less than twelve (12) inches from the roof, face or rib;

(i) Charges exceeding one and one-half (1-1/2) pounds, but not exceeding three (3) pounds, shall be used only if boreholes are six (6) feet or more in depth, the explosives are charged in a continuous train, with no cartridges deliberately deformed or crushed, with all cartridges in contact with each other and with the end cartridges touching the back of the hole and the stemming respectively. However the three (3) pound limit does not apply to special solid rock work if the mine is evacuated or if approved by the department;

(j) Shots shall be charged and fired by certified shotfirers designated by the mine foreman;

(k) Boreholes shall not be charged while any other work is being done at the face, and the shot or shots shall be fired before any other work is done in the zone of danger from blasting except that which is necessary to safeguard the employees;

(l) Only nonmetallic tamping bars shall be used for charging and tamping boreholes. This does not prohibit the use of a nonmetallic tamping bar with a nonsparking metallic scraper on one (1) end;

(m) The leg wires of electric detonators shall be kept shunted until ready to connect to the firing cable;

(n) Shots shall not be fired from the power of signal circuit while any men are in the mine;

(o) The roof and ribs of working places shall be tested before and after firing each shot or group of multiple shots;

(p) Ample warning shall be given before shots are fired, and care shall be taken to ascertain that all persons are in the clear. Men shall be removed from adjoining working places when there is danger of a shot blowing through;

(q) Mixed types or brands of explosives shall not be charged or fired in any borehole;

(r) Mudcaps (adobes) or other unconfined shots shall not be fired underground in a mine;

(s) Before blasting, the continuity of the blasting circuits shall be tested with a permissible blaster's galvanometer specifically designed for this purpose;

(t) No instantaneous detonator shall be connected in a circuit containing short-period delay detonators. The first charge in a sequence shall be initiated by a short period delay detonator having a nominal delay period of not less than twenty-five (25) milliseconds;

(u) All short period delay detonators shall be wired in series;

(v) Each primer shall be made with care to insure that the detonator is inserted properly and does not protrude from the wrapping and that the leg wires are secured to the cartridge in a manner so that the detonator will not become dislodged in handling and charging;

(w) In making a primer, a powder punch of nonsparking material shall be used. The hole in the cartridge shall be at least one-half (1/2) inch deeper than the detonator used. Rolling the end of a cartridge to receive a detonator is prohibited;

(x) The primer shall be placed in the borehole first pointing outward and the rest of the charge shall be pushed in a continuous train to the back of the borehole to prevent cuttings from getting between the cartridges; and

(y) Suitable clean-up of loose coal and coal dust with adequate rock-dusting or wetting down at the face of each working place shall be completed prior to charging shot holes.

(11) Blasting cables shall be:

(a) Well insulated and as long as may be necessary to permit the shotfirer to get in a safe place around a corner;

(b) Short-circuited at the battery end until ready to attach to the blasting unit;

(c) Staggered as to length or the ends kept well separated when attached to the detonator leg wires; and

(d) Kept clear of power wires and all other possible sources of active or stray electric current.

(12) Where misfires occur with electric detonators, a waiting period of at least five (5) minutes shall elapse before anyone returns to the shot. After the failure, the blasting cable shall be disconnected from the source of power and the battery ends short-circuited before electric connections are examined.

(13) Explosives shall be removed by firing a separate charge at least two (2) feet away from, and parallel to, the misfired charge or by washing the stemming and the charge from the borehole with water, or by inserting and firing a new primer after the stemming has been washed out.

(14) A very careful search of the working place, and, if necessary, of the blasted material after it reaches the surface shall be made after blasting a misfired hole, to recover any undetonated explosive.

(15) The handling of a misfired shot shall be under the direct supervision of ***a certified***~~[the]~~ mine foreman~~[or a competent person designated by him]~~.

(16) Where compressed air is used for blasting or breaking coal, the following shall apply:

(a) Compressed air shall be conducted from the compressor to within a practical working distance of the face by steel airlines tested to withstand an approximate pressure of twenty thousand (20,000) pounds per square inch;

(b) Air lines shall be grounded at the compressor and, if possible, at other low-resistance ground connections along the lines, such as at borehole casings. They shall not be connected in any way to tracks, water lines, or other electric power return conductors and shall be suitably insulated where they cross electric wires or underneath the track;

(c) Shutoff valves shall be installed every one thousand (1,000) feet in all compressed-air blasting lines and in all branch lines at a point near the main lines;

(d) Compressed-air blasting lines shall be protected at places where equipment passes over, under, or adjacent to them;

(e) Steel, copper, or other lines shall not be handled or repaired when air pressure is in the line;

(f) Air lines shall be examined periodically for kinks or other weaknesses and replaced immediately when defects are found;

(g) Copper tubing shall be coiled and uncoiled properly. The part of the tubing that is affected by frequent coiling and uncoiling shall be renewed periodically because of the dangers from kinks and crystallization;

(h) Blowdown valves shall not be less than forty-five (45) feet from the face and shall be around a right angle;

(i) Holes for compressed-air tubes shall be within the limits of the cut;

(j) When blowdown valves are opened to discharge the tube, they shall remain open until time to place the tube in the next borehole except where shear-strip or shear-pin tubes are used;

(k) After breaking down the coal in any one (1) place, the tube shall be disconnected at once from the air line and not reconnected until ready to be used in the next place;

(l) When a differential-pressure-type tube fails to discharge, the line leading to the tube shall be disconnected at the blowdown valve, and the tube shall be dragged by means of the line to an inactive place, marked with warning signs, and left one (1) hour before any repair work is done thereon; and

(m) All persons shall be removed from adjoining working places where there is danger of breaking through and shall be at a safe distance around a right angle while coal breaking is in progress.

Section 10. KRS 352.280 is amended to read as follows:

In all mines the licensee or superintendent shall employ one (1) or more certified fire bosses or other properly certified persons. The fire boss or other properly certified person shall examine carefully within three (3) hours before each shift enters the mine, every working place, all places adjacent to live workings, every roadway where persons are required to work or travel, all abandoned panels on the intake, every seal on the intake, and all roof falls near active workings on the intake and on the working sections. Before proceeding with the examination he shall see that the air current is traveling its proper course. In making the examination he shall use an[~~ approved safety lamp or other~~] approved device ***for the purpose of detecting the presence of explosive and dangerous gases or deficiencies of oxygen***. The fire boss or other properly certified person shall examine for all dangers in all portions of the ***mine***[~~mines~~] under his charge, and after examination he shall leave at or as close as possible to the face of every place examined the date and time of the examination and his initials as evidence that he has performed his duty. He shall also examine the entrances to all worked-out and abandoned portions adjacent to the roadways and working places under his charge where explosive gas is likely to accumulate, and he shall place a danger ***sign***[~~signal~~] across the entrance to every place where explosive gas is discovered or where immediate danger is found to exist from any other cause. The ***danger sign***[~~signal~~] shall be sufficient warning for persons not to enter. When the mine is idle and workmen are required to go into the mine, the section, portion, or part of the mine entered must be inspected by a fire boss or other properly certified person within three (3) hours before the workmen enter. Each week, the fire boss or some other certified person designated by the mine foreman shall examine each seal on the return, all main intake and return entries, and all escapeways.

Section 11. KRS 352.300 is amended to read as follows:

(1)[~~ The mine foreman and the fire boss shall, at or near the main entrance to the mine, provide a permanent station with a proper danger signal, designated by suitable letters and colors placed thereon, and, if the working portions are one (1) mile or more from the entrance to the mine or from the bottom of the shaft or slope, a station of suitable dimensions for the use of the fire boss may be erected by the mine foreman in a location approved by the inspector.~~

~~(2)~~] No person, except the mine foreman, and in case of necessity other persons as are designated by him, and under his direct supervision for the purpose of correcting the dangerous condition, shall pass a danger ***sign***[~~signal~~] until the dangerous condition has been corrected. No person shall enter a mine until the mine has been examined by a fire boss and[~~ the mine or the portions of it beyond the fire boss station~~] reported by him to be safe.

(2)[~~(3)~~]The fire boss shall not allow any other person to enter or remain in any portion of the mine through which a dangerous accumulation of gas is being passed into the ventilating current from any portion of the mine. He shall report to the mine foreman at once any violations of KRS 352.280 to 352.310.

(3)[~~(4)~~]No person except a mine foreman, assistant mine foreman, fire boss or person designated by the mine foreman under subsection (2) of this section, shall pass or remove any danger ***sign***[~~signal~~] before the mine has been examined and reported to be safe.

(4)[~~(5)~~]No person shall pass or remove any danger ***sign***[~~signal~~] without permission from the mine foreman, the assistant mine foreman, or the fire boss.

(5)[~~(6)~~]If any mine foreman has knowledge of a violation of subsection (4) or (5) of this section, he shall immediately notify the licensee or superintendent who shall notify the mine inspector, in writing. The mine inspector shall then immediately institute proceedings against the offender.

Section 12. KRS 352.371 is amended to read as follows:

Whenever any working place approaches within fifty (50) feet of abandoned areas in the mine as shown by surveys made and certified by a ***licensed***~~[registered]~~ engineer, or within two hundred (200) feet of any other abandoned areas of the mine which cannot be inspected and which may contain dangerous accumulations of water or gas, or within two hundred (200) feet of any workings of an adjacent mine, a borehole or boreholes shall be drilled to a distance of at least twenty (20) feet in advance of the working face of the working place and shall be continually maintained to a distance of at least ten (10) feet in advance of the advancing working face. When there is more than one (1) borehole, they shall be drilled sufficiently close to each other to insure that the advancing working face will not accidentally hole through into abandoned areas or adjacent mines. Boreholes shall also be drilled not more than eight (8) feet apart in the rib of the working place to a distance of at least twenty (20) feet and at an angle of forty-five (45) degrees before additional cuts are taken. Rib holes shall be drilled in one (1) or both ribs of the working place as may be necessary for adequate protection of miners in such place.

Section 13. KRS 352.380 is amended to read as follows:

In case of the death or resignation of a mine foreman, the superintendent shall select a ~~[competent]~~certified ***mine foreman to assume the duties of his predecessor***~~[man, if one (1) is available, and if not, he may temporarily select any other competent man who, if approved by the mine inspector and the commissioner, may serve until the next examination. He shall, while acting as mine foreman, have the same duties and be liable to the same penalties]~~.

Section 14. Section 26 of House Bill 436 of the 2000 Regular Session, if that bill becomes law, is further amended to read as follows:

(1) The licensee of any mine may adopt special rules consistent with KRS Chapter 351 and this chapter for the government and operation of his mine, and covering all the work pertaining thereto in and out of the mine. Before the rules are put into effect they shall be approved in writing by the commissioner. The rules, when adopted and approved in writing by the commissioner, shall be printed on cardboard in the language spoken by seventy-five percent (75%) or more of the employees at the mine, and shall be posted on a bulletin board or some other conspicuous place about the mine where they may be seen by the employees at the mine. Before the rules are so adopted, approved and posted, the representative of the employees at the mine shall be given a copy thereof, and be deemed to have agreed thereto, before the employees are required to obey the rules.

(2) The mine rules shall be printed in a form prescribed by the commissioner.

(3) The licensee shall furnish each employee a copy of the mine rules, and each employee shall sign a statement indicating his receipt of a copy of the rules and his agreement to comply with them.

(4) The mine rules shall be included in the subjects taught during annual retraining of the mine's employees.

(5) On or after April 9, 1996, if new mine rules require special safety equipment or protective clothing to be used or worn by the employees, the licensee shall provide the equipment or clothing to the miners at no cost to them.

HB 579, AN ACT relating to chemical munitions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.50-130 is amended to read as follows:

(1) The General Assembly of Kentucky finds that:

(a) The compounds listed in subsection (2) of this section were designed and configured to be utilized for warfare, with the purpose of incapacitating or inducing lethality in persons who come in contact with the compounds, and that the compounds have no legitimate civilian use;

(b) The Commonwealth of Kentucky owes to its residents a duty of utmost care to assure that no person will be exposed to these compounds or the degradation by-products of these compounds through purposeful or accidental release of the compounds into the air, land, or water of the Commonwealth, and also owes a duty to utilize the police powers of the Commonwealth to guarantee the safe demilitarization, decommissioning, dismantling, and disposal of weapons containing these compounds and to eliminate potential risks of exposure from the treatment and disposal of the compounds;

(c) Section 6929 of Title 42 of the United States Code, specifically recognizes and reserves to the Commonwealth the authority to impose reasonable restrictions directly relating to public health and safety with respect to the management of hazardous wastes beyond the minimum standards established under federal law; and

(d) There exist substantial gaps in information concerning the acute and chronic health effects and environmental consequences of exposure to the compounds and the degradation by-products of the compounds listed in subsection (2) of this section, which, given the high acute toxicity of the compounds relative to other regulated hazardous wastes, justify the imposition of standards correlative to the uncertainties and severity of risks potentially posed by the treatment or disposal of the compounds.

(2) Notwithstanding any other provision of this chapter, within thirty (30) days after July 15, 1988, the cabinet shall list the following ***compounds***~~[substances]~~ as hazardous wastes for the purposes of regulation of the treatment, storage, and disposal of the wastes under the delegated authority of the Resource Conservation and Recovery Act, 42 U.S.C. 6901 et

seq.: GB (isopropyl methyl phosphonoflouridate); VX (O-ethyl-S-(2-diisopropylaminoethyl) methyl phosphonothiolate); and H (bis(2-chloroethyl) sulfide) and related compounds.

(3) In addition to the requirements of KRS 224.46-520(1), the cabinet shall consider the criteria set forth in this subsection in making a determination to issue, deny***,*** or condition a permit for any person desiring a permit to construct or operate a hazardous-waste site or facility for treatment[~~, storage,~~] or disposal of any of the ***compounds***[~~substances~~] identified in subsection (2) of this section. The applicant shall affirmatively demonstrate, and the cabinet shall find prior to issuance, conditional issuance, or denial of the permit, ***or draft permit*** that:

(a) The proposed treatment or destruction technology has been fully proven in an operational facility of scale, configuration, and throughput comparable to the proposed facility, ***or has been demonstrated as effective, within the chemical weapons disposal programs as directed in Pub. L. 104-208 and other applicable federal laws,***[~~for a period of time~~] sufficient to provide[~~ consistent~~] assurance of destruction or neutralization at an efficiency of ninety-nine and nine thousand, nine hundred, and ninety-nine ten thousandths percent (99.9999%) for each ***compound listed in subsection (2) of this section that is***[~~substance~~] proposed to be treated or destroyed, with the efficiency to be demonstrated as achievable[~~ during the design life of the facility~~] under all operating conditions***.***[~~ including~~] During the occurrence of malfunctions, upsets, or unplanned shutdowns***, all quantities of any compound listed in subsection (2) of this section shall be contained, reprocessed or otherwise controlled so as to ensure that the required efficiency is attained prior to any release to the environment***;

(b) Monitoring data from an operational facility ***or alternative disposal program*** as described in paragraph (a) of this subsection reflects ***that*** the[~~ absence of~~] emissions from treatment and destruction facilities or fugitive sources, including but not limited to the ***emissions of the compounds***[~~substances~~] identified in subsection (2) of this section and products of combustion,[~~ and~~] incomplete combustion, ***and other processes***[~~which~~] alone or in combination present ***no more than a minimal***[~~any~~] risk of acute or chronic human health effect, as demonstrated by sufficient and applicable toxicological data, or adverse environmental effect; and

(c) ***An emergency response***[~~A~~] plan has been submitted to the cabinet and approved, ***after public notice and an opportunity to be heard,*** providing for[~~ development and funding of~~] sufficient training, coordination, and equipment for state and local emergency response personnel, including[~~ the~~] health, police, fire, and ***other responders***[~~emergency response fields~~], to assure the ability of the community to respond to releases from such a facility***. The plan shall demonstrate***[~~, including development and funding of an emergency response plan by the applicant which demonstrates~~] the capability of evacuating prior to exposure***, or otherwise mitigating exposure for*** all individuals that might be exposed to releases from the facility during a credible worst-case release. In determining the population and area of potential exposure during a worst-case release, all possible climatic conditions and population distributions shall be assumed for the largest area where any exposure to the release could induce acute or chronic health consequences or environmental impact. ***If such a plan has not been fully implemented at the time of permit approval, the Division of Emergency Management shall advise the cabinet of critical shortcomings. Any permit issued shall include, as conditions, the resolution of critical shortcomings in the implementation of the plan, and shall not allow actual destruction of any of the compounds identified in subsection (2) of this section to begin until those permit conditions have been met to the satisfaction of the Division of Emergency Management. No later than January 1, 2001, the Division of Emergency Management shall complete an assessment of a draft plan previously submitted by the applicant and the respective counties and, after public notice and an opportunity to be heard, shall approve or reject the draft plan. The cabinet shall conduct no technical review of a permit application for treatment or disposal of these compounds until notified in writing by the Division of Emergency Management that the draft plan has been approved***[~~The plan shall be developed and submitted for approval by the applicant, and no technical review of a permit subject to this section shall proceed unless the plan has first been approved, after public notice and an opportunity to be heard concerning the plan~~].

(4) In considering any application for a permit subject to this section, and supporting information which shall be provided by the applicant on request by the cabinet, the cabinet shall not issue a permit unless, as part of the alternatives analysis of KRS 224.46-520(1), the cabinet makes an affirmative finding after public notice and an opportunity to be heard, that ***no alternative method of treatment or disposal exists in an operational facility or alternative disposal program as described in subsection (3)(a) of this section that create less risk of release, or acute or chronic health effect, or adverse environmental effect.***[~~:~~

~~(a) No alternative method of treatment or disposal, including, but not limited to, neutralization and transportation to a less-populated disposal site, exists that creates less risk of release or harm to the public or the environment in the event of release;~~

~~(b) No alternative method of treatment or destruction, including, but not limited to, neutralization and transportation to a less-populated disposal site, is likely to exist or could be developed which would pose less risk of release or harm to the public or environment in the event of release, before the time that the decomposition of the compounds or the containers or munitions housing the compounds, necessitates destruction of the compounds due to serious risk of imminent and substantial release of the compounds due to instability or container degradation. In considering~~

~~alternatives to the proposed activity, the cabinet shall affirmatively consider all reasonable alternatives, including alternatives that could be developed, and shall issue a permit only where it finds by clear and convincing evidence that no alternative treatment or disposal option, including transportation, exists or could be developed that would provide greater protection against exposure or harm to the public or environment.~~]

(5) In addition to the definition of the term as defined in this chapter, the term "treatment", as used in this section, shall include the manual or mechanical handling of the chemical compounds listed in subsection (2) of this section and of any munitions containing the compounds *during*[~~; and~~] the processing of munitions to remove the compounds, to separate *munitions*[~~compound~~] components, and to otherwise prepare the components and compounds for destruction, neutralization,[~~ transportation,~~] dismantling, or decommissioning. *The term "treatment" shall not include the handling, movement, or overpacking of containers or munitions containing a compound listed in subsection (2) of this section within the fenced boundaries of an area used for the storage of those munitions if:*

(a) A plan for the handling, movement, or overpacking is submitted and approved by the cabinet, after public notice and opportunity to be heard, before the handling, movement, or overpacking occurs; or

(b) An emergency has occurred and the handling, movement, or overpacking is necessary to protect human health, safety, or the environment, if a report describing the handling, movement, or overpacking is submitted to the cabinet as soon as possible after the emergency is abated.

HB 599, AN ACT relating to mining reclamation.

WHEREAS, land or water resources are sometimes adversely affected by unanticipated surface coal mining and reclamation operations outside the permitted area; and

WHEREAS, there are times when a coal operator or permittee is unreasonably prevented legal access to property for purposes of conducting reclamation or violation abatement activities; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet has taken the legal position that the coal company has an easement by necessity to complete the required remedial measures, but such argument was rejected by Kentucky's highest court; and

WHEREAS, when the landowner unreasonably denies access to the coal operator or permittee, the coal operator or permittee is faced with cessation of his operation and denial of future permits both in Kentucky and in other coal producing states, as well as potential reclamation bond forfeiture; and

WHEREAS, it is the intent of the General Assembly to resolve this controversy;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) When a reclamation liability or violation occurs outside a permitted area and when the coal operator or permittee has been unreasonably denied sufficient access to the land or water resources to conduct reclamation or violation abatement activities, the Natural Resources and Environmental Protection Cabinet shall terminate any violation associated with such refusal. However, a penalty may be imposed in such a situation and the violation will remain in the operator's file.

(2) Nothing in this section shall affect any remedy or right of action available to any person for damages caused to that person's property by surface coal mining and reclamation operations.

The Committee Substitute No. 1 to **HB 599** is as follows:

HB 599, AN ACT relating to mining reclamation.

WHEREAS, land or water resources are sometimes adversely affected by unanticipated surface coal mining and reclamation operations outside the permitted area; and

WHEREAS, there are times when a coal operator or permittee is unreasonably prevented legal access to property for purposes of conducting reclamation or violation abatement activities; and

WHEREAS, the Natural Resources and Environmental Protection Cabinet has taken the legal position that the coal company has an easement by necessity to complete the required remedial measures, but such argument was rejected by Kentucky's highest court; and

WHEREAS, when the landowner unreasonably denies access to the coal operator or permittee, the coal operator or permittee is faced with cessation of his operation and denial of future permits both in Kentucky and in other coal producing states, as well as potential reclamation bond forfeiture; and

WHEREAS, it is the intent of the General Assembly to resolve this controversy;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) A permittee, operator, or other person who is responsible for abatement of a violation shall have access to the land affected by the violation for the limited purpose of abating the violation, if the violation creates an imminent danger to the health or safety of the public or of a person other than the landowner.

(2) If a violation other than one described in subsection (1) of this section cannot be abated because the permittee, operator, or other person who is responsible for abatement of the violation has been denied reasonable access to the land affected by the violation, the secretary or authorized representative of the cabinet shall terminate the notice of noncompliance or cessation order issued for the violation. Prior to terminating a notice of noncompliance or cessation order under this subsection, the secretary or authorized representative of the cabinet shall advise the landowner or occupant of the affected land refusing to allow access of that person's rights under this chapter. The secretary or authorized representative of the cabinet shall not terminate any notice of noncompliance or cessation order under this subsection if the secretary or authorized representative of the cabinet determines that the denial of access necessary to abate the violation has been procured through collusion between the permittee, operator, or other person who is responsible for abatement of the violation and the landowner or occupant of the affected land who is refusing to allow the necessary access. Termination of a notice of noncompliance or cessation order under this subsection shall not affect the assessment of a civil penalty for the violation.

(3) Nothing in this section shall affect any person's right for damages to property caused by surface coal mining and reclamation operations.

SB 105, AN ACT relating to parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 148.029 is amended to read as follows:

(1) All areas controlled by the Department of Parks and designated as camping, hiking, or other family-oriented recreation areas are designated wildlife sanctuaries for the purpose of affording protection to the wildlife thereon as natural, integrated, interrelated, ecological communities.

(2) No unauthorized person shall enter a wildlife sanctuary and take, damage, injure, kill, destroy, or unduly disturb the wildlife therein except as provided in *this section*[~~subsection (3) hereof~~].

(3) The department may issue to any person a permit for the scientific collection of wildlife provided the applicant for such permit holds a current state scientific collecting permit issued by the Department of Fish and Wildlife Resources.

(4) This section does not apply to fish taken pursuant to KRS Chapter 150 and all rules and regulations promulgated by the Department of Parks and the Department of Fish and Wildlife Resources.

(5) The department *may authorize*[~~in cooperation with~~] the Department of Fish and Wildlife Resources *to administer a wildlife management plan that may include the implementation of any management method provided in KRS Chapter 150*[~~may remove, destroy, or disturb wildlife~~] in the course of operating and administering the parks; and in so doing shall consider the ecological impact on the sanctuary as a whole.

Calendar

HB 380, HB 510, HB 511, HB 544, HB 562, HB 571, HB 603, HB 605, HB 692, HB 694, HB 536, HB 541, HB 643, HB 664, and **HB 564** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Orders of the Day

HB 371, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative DeWeese moved that **HB 371** be passed.

On the roll call the vote was: **Yeas 96, Nays 1.** (See February 23 , 2000 roll call on **HB 371** - Appendix.)

HB 371 was passed and the title agreed to.

Representative DeWeese moved that the vote by which **HB 371** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 16 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved that **SCR 16** be adopted.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See February 23, 2000 roll call on **SCR 16** - Appendix.)

SCR 16 was adopted.

Representative R. Adams moved that the vote by which **SCR 16** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 189 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 189** be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See February 23 , 2000 roll call on **HB 189** - Appendix.)

HB 189 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 189** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 443, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 443**. Agreed.

Representative Thomas moved that **HB 443**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96**, **Nays 1**. (See February 23, 2000 roll call on **HB 443** - Appendix.)

HB 443, by way of Committee Substitute, was passed.

Representative Thomas moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 443**. Agreed, and the Title was agreed to.

Representative Thomas moved that the vote by which **HB 443**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 412 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walton moved that **HB 412** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See February 23 , 2000 roll call on **HB 412** - Appendix.)

HB 412 was passed and the title agreed to.

Representative Walton moved that the vote by which **HB 412** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 517 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bratcher moved that **HB 517** be passed.

On the roll call the vote was: **Yeas 96**, **Nays 0**. (See February 23 , 2000 roll call on **HB 517** - Appendix.)

HB 517 was passed and the title agreed to.

Representative Bratcher moved that the vote by which **HB 517** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 561 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved that **HB 561** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 23 , 2000 roll call on **HB 561** - Appendix.)

HB 561 was passed and the title agreed to.

Representative Baugh moved that the vote by which **HB 561** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 381, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palumbo moved the adoption of Floor Amendment No. 3 to **HB 381**. Agreed.

Representative Palumbo moved that **HB 381**, as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 23, 2000 roll call on **HB 381** - Appendix.)

HB 381, as amended, was passed and the title agreed to.

Representative Palumbo moved that the vote by which **HB 381**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 494, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative J. Turner moved the adoption of the Committee Substitute to **HB 494**. Agreed.

Representative J. Turner moved that **HB 494**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 23, 2000 roll call on **HB 494** - Appendix.)

HB 494, by way of Committee Substitute, was passed and the title agreed to.

Representative J. Turner moved that the vote by which **HB 494**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Stumbo moved the adoption of the following **Legislative Citation No. 73**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the visiting participants of the Governor's Scholars Program for the great effort and dedication to academic excellence which has been demonstrated by their participation in this worthwhile program. Such distinctive achievement as has been attained by these outstanding young people reflects exceptional diligence and talent and brings well-deserved recognition to the schools and communities which are represented by these, Kentucky's best and brightest. The members of this august body are pleased to join Speaker Jody Richards in applauding the members of the Kentucky Governor's Scholars Program and in extending sincere best wishes for future success and good fortune. Done in Frankfort, this twenty-third day of February, on the year of our Lord, two thousand.

Legislative Citation No. 73 was adopted without objection.

HB 634, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of Floor Amendment No. 1 to **HB 634**. Agreed.

Representative Cave moved that **HB 634**, as amended, be passed.

On the roll call the vote was: **Yeas 92**, **Nays 0**. (See February 23, 2000 roll call on **HB 634** - Appendix.)

HB 634, as amended, was passed and the title agreed to.

Representative Cave moved that the vote by which **HB 634**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 190 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nesler moved that **HB 190** be passed.

On the roll call the vote was: **Yeas 90**, **Nays 0**. (See February 23 , 2000 roll call on **HB 190** - Appendix.)

HB 190 was passed and the title agreed to.

Representative Nesler moved that the vote by which **HB 190** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 259, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 259**. Agreed.

Representative Haydon moved that **HB 259**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93**, **Nays 0**. (See February 23, 2000 roll call on **HB 259** - Appendix.)

HB 259, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 259**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 8, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Committee Amendment No. 1 to **HB 8**. Agreed.

Representative Collins moved that **HB 8**, as amended, be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See February 23, 2000 roll call on **HB 8** - Appendix.)

HB 8, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 8**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 158 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved that **HB 158** be passed.

On the roll call the vote was: **Yeas 99**, **Nays 0**. (See February 23 , 2000 roll call on **HB 158** - Appendix.)

HB 158 was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 158** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so by voice vote. Agreed

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., February 24, 2000. Agreed.

Representative Stumbo moved that **HB 565** be reassigned to the Committee on Seniors, Military Affairs, and Public Safety. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 793, by Representatives DeWeese, Treesh, Westrom, Bratcher, Marzian, Crimm, and Lee: AN ACT relating to sales and use tax.

HB 794, by Representative Riggs: AN ACT relating to restitution in criminal cases.

HB 795, by Representative Riggs: AN ACT relating to local governments.

HB 796, by Representatives Cave and Wilkey: AN ACT relating to business.

HB 797, by Representatives A. Arnold and Damron: AN ACT relating to carrying concealed deadly weapons.

HB 798, by Representative A. Arnold: AN ACT relating to crimes and punishments.

HB 799, by Representatives L. Clark, Moberly, Barrows, Callahan, Richards, Rasche, Hoover and Ford: AN ACT relating to the Office of Education Accountability.

HB 800, by Representative Stumbo: AN ACT relating to legislative agents.

HB 801, by Representatives Alexander, Anderson, Palmer, Gooch, Colter, J. Turner, Siler, Wilkey, Wayne, D. D. Butler, Napier, Gray and Nesler: AN ACT relating to the Kentucky Community and Technical College System.

HB 802, by Representative Collins: AN ACT relating to revenue and taxation.

HB 803, by Representative Collins: AN ACT relating to school safety.

HB 804, by Representatives Cherry and Allen: AN ACT relating to sales and use tax.

HB 805, by Representatives Gooch, J. Arnold, Ausmus, P. Clark, Childers, Branham, and Ratliff: AN ACT relating to the development and use of natural resources.

HB 806, by Representatives Gooch, J. Arnold, Ausmus, P. Clark, Childers, Branham, and Ratliff: AN ACT relating to the development and use of natural resources.

HB 807, by Representative Crenshaw: AN ACT relating to property tax.

HJR 113, by Representatives Nunn, Richards, Adkins, and Crimm: A JOINT RESOLUTION relating to the recognition of Chief Justice Frederick M. Vinson.

HCR 114, by Representatives Collins, Bruce, Jenkins, and Callahan: A CONCURRENT RESOLUTION requesting the Interim Joint Committee on Education to conduct a study of the salaries of classified employees in local school districts.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills have been posted for Committee consideration:

Education: **HB 689, SB 77, SB 125, HB 440, SB 53**

Motions, Petitions, and Communications (Continued)

Representative Walton moved the adoption of the following **Legislative Citation No. 72**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Kentucky Municipal Clerks Association upon visiting the Capitol, in Frankfort, in order to view the daily actions of the Kentucky legislature. The members of the Kentucky House of Representatives are pleased to join Representative Charles R. Walton in commending these dedicated public servants and exemplary citizens for demonstrating their interest and involvement in the legislative process by attending this day's activities in the House of Representatives during the 2000 Regular Session of the Kentucky General Assembly. Done in Frankfort, this twenty-third day of February, in the year two thousand.

Legislative Citation No. 72 was adopted without objection.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that his vote be changed from "nay" to "yea" on **HB 595**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Adams moved that his vote be changed from "yea" to "nay" on **HB 463**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 259**. Agreed.

Representative Gooch moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gooch moved that he be recorded as voting "yea" on **HB 381**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 412**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "yea" on **HB 190**. Agreed.

Representative Alexander moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Alexander moved that he be recorded as voting "yea" on **HB 634**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 443** and **HB 517**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 231, HB 359, HB 462, HB 483, HB 595,** and **HB 616**. Agreed.

Representative Damron moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Damron moved that he be recorded as voting "yea" on **HB 120, HB 486, HB 505, HB 438, HB 540, HB 542, HB 604, HJR 61,** and **HJR 78**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 596**, by Representative R. Adams:

On page 1, line 6 by deleting the word "***House***" and inserting in lieu thereof "***Horse***".

Floor Amendment No. 1 to **HB 541**, by Representative Moberly:

On page 3, line 12, after "*(7)*" but before "***Except***" by inserting the following: "***For any taxable year ending on or after December 31, 1995,***"; and

on page 3, line 17, by deleting the first "***1994***" as it appears in the line and inserting in lieu thereof "***1995***"; and

on page 3, beginning with line 20 after the period "." by deleting the remainder of the line and deleting lines 21 to 24 in their entirety; and

on page 3, line 26, by deleting "***1994***" and inserting in lieu thereof "***1995***"; and

on page 4, beginning with line 3 after the period "." by deleting the remainder of the line and deleting lines 4 to 7 in their entirety; and on page 4, line 10, after the word "***ending***" by inserting "***before December 31, 1995,***" and deleting the remainder of the line in its entirety; and

on page 4, line 13, by deleting "***January 1, 1994***" and inserting in lieu thereof "***December 22, 1994***"; and

on page 12, line 25, after "apply", insert "retroactively";

on page 12. line 26, by deleting "beginning on or after January 1, 1995." and inserting in lieu thereof "ending on or after December 31, 1995."; and

on page 12, line 27, after "apply", insert "retroactively"; and

on page 12, line 27, to page 13, line 1, delete "not closed to assessment or refund on January 1, 2000" and insert "ending before December 31, 1995" in lieu thereof; and

on page 13, line 2, insert the following:

"Section 4. Whereas the fiscal year begins on July 1 and the General Assembly finds that it is critical that this Act take effect at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2000.".

Floor Amendment No. 11 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 3, line 24, after the period, by inserting, "***The consolidated local government council shall have all the power and authority that the board of aldermen of the city of the first class and all the power that the fiscal court of the county containing a city of the first class have exercised under the Constitution and the laws of the Commonwealth prior to the consolidation.***"; and

On Page 6, line 14, by deleting, "***Governor, in accordance with Section 152 of the Constitution,***", and inserting in lieu thereof, "***consolidated local government council***"; and

On Page 6, line 15, by deleting, "***Upon notification of the vacancy by the county clerk, the Governor***", and inserting in lieu thereof, "***The consolidated local government council***"; and

On Page 10, line 2, after "***Kentucky for***", by deleting the remainder of that line and inserting in lieu thereof, "***all purposes.***"; and

On Page 10, lines 3 and 4, by deleting them in their entirety; and

On Page 10, lines 14 to 27, after "***(2)***", by deleting them in their entirety; and

On Page 11, line 2, by renumbering "***(4)***" to "***(3)***"; and

On Page 11, line 8, by inserting at the beginning of the line "***(1)***"; and

On Page 11, after line 13, by inserting, "***(2) The legislative council may provide by ordinance for the consolidation under a common administration of the police departments in the previously existing city of the first class and the county. If a consolidation occurs, the legislative council shall provide that the number of sworn police officers assigned to work within the geographical boundaries of the previously existing city of the first class shall not be diminished except in proportion to any diminishment in the total number of police officers serving in the county as a whole or in proportion to the diminishment of the population in the territory now encompassed by the previously existing city of the first class in comparison to the total present population of the county. For purposes of any such adjustment, the number of sworn officers assigned to work within the boundaries of the previously existing city of the first class and in the county as a whole as of the date of the certification of the consolidation referendum, and the population of the previously existing city of the first class and the county as determined by the 2000 census shall be used.***"; and

On Page 11, line 21, after "***class***", by deleting, "***or its***"; and

On Page 11, line 22, by deleting it in its entirety; and

On Page 11, line 23, by deleting "***expire***", and inserting in lieu thereof, "***but not in the county containing the city of the first class, or which is in effect in the county containing the city of the first class but not in the city of the first class, shall be given full force and effect in the area in which it was effective prior to the consolidation for a period of***"; and

On Page 11, line 24, after the period, by inserting, "***Any ordinance, resolution, or order shall thereafter cease to be effective. However, if there are two (2) ordinances on the same subject matter, one (1) enacted by the previously existing city of the first class and one (1) enacted by the county, which are not amended or reenacted by the new consolidated government within five (5) years, then the ordinances shall remain in effect after five (5) years except that the ordinances shall cease to be effective to the extent of any dissimilarity between the ordinances.***" and

On Page 20, line 21, at the beginning of that line by inserting, "***(1)***"; and

On Page 20, after line 24, by inserting, "***(2) The consolidated local government may by ordinance provide for the differing modes of sanitation and fire services in different districts and areas within the county. If these differing modes are provided, expenditures for fire and sanitation services shall be paid from the property tax and fire district assessment applicable to the district and area. If the consolidated local government provides for differing rates of property tax assessment***

within different areas or districts of the county, revenues raised from these differing property tax rates and assessments shall be commensurate with the expenditures for the additional fire protection and sanitation services furnished, provided that in regard to services furnished to residents in the present boundaries of the previously existing city of the first class and additional taxes assessed upon residents within those boundaries, the council shall provide for those services and calculate the additional property tax assessments for the residents within those boundaries considered as a single taxing and service district."; and

On Page 22, line 27, after "***court***", by inserting "***and the board of aldermen***"; and

On Page 23, lines 2 through 7, after the "***(2)***", by deleting them in their entirety, and inserting in lieu thereof, "***In the event that the fiscal court and the board of aldermen cannot agree within sixty (60) days after the certification of the election approving the consolidation of local governments on a plan to divide the county into twenty-six (26) districts, then the members of the board of aldermen and the county commissioners of the fiscal court shall meet in common council to decide the matter. In this common council, the three (3) county commissioners shall have four (4) votes each for a total of twelve (12) votes among them and the twelve (12) members of the board of aldermen shall have one (1) vote each for a total of twelve (12) votes among them.***"; and

On Page 23, lines 8, 11, 15, 17 and 21, by renumbering subsections "***(4)***, ***(5)***, ***(6)***, ***(7)***, and ***(8)***" as subsections "***(2)***, ***(3)***, ***(4)***, ***(5)***, and ***(6)***", respectively; and

On Page 23, lines 23 through 27, by deleting them in their entirety; and

On Page 24, lines 1 through 3, by deleting them in their entirety; and

On Page, 24, line 14, after "***of***", by deleting "***combining***", and inserting in lieu thereof, "***dissolving the City of ...., and of combining the governments of***"; and

On Page 24, line 16, after "***existence***", by inserting, "***and preventing the creation of any new cities***".

Floor Amendment No. 12 to the Committee Substitute to **HB 647**, by Representative Bather:

On Page 3, line 24, after the period, by inserting, "***The consolidated local government council shall have all the power and authority that the board of aldermen of the city of the first class and all the power that the fiscal court of the county containing a city of the first class have exercised under the Constitution and the laws of the Commonwealth prior to the consolidation.***"; and

On Page 6, line 14, by deleting, "***Governor, in accordance with Section 152 of the Constitution,***", and inserting in lieu thereof, "***consolidated local government council***"; and

On Page 6, line 15, by deleting, "***Upon notification of the vacancy by the county clerk, the Governor***", and inserting in lieu thereof, "***The consolidated local government council***"; and

On Page 10, line 2, after "***Kentucky***", by deleting the remainder of that line and inserting in lieu thereof, "***for all purposes.***"; and

On Page 10, lines 3 and 4, by deleting them in their entirety; and

On Page 10, lines 14 to 27, after "***(2)***", by deleting them in their entirety; and

On Page 11, line 1, by deleting it in its entirety, and inserting in lieu thereof, "***Upon the adoption of a consolidated local government, nothing herein shall be construed to prohibit or constrain the citizens of unincorporated areas of the county containing a city of the first class or the citizens of areas contained in the previously existing city of the first class from organizing into new cities in the manner provided by law.***" and

On Page 11, line 2, by renumbering "***(4)***" to "***(3)***"; and

On Page 11, line 8, by inserting at the beginning of the line, "***(1)***"; and

On Page 11, after line 13, by inserting, "***(2) The legislative council may provide by ordinance for the consolidation under a common administration of the police departments in the previously existing city of the first class and the county. If a consolidation occurs, the legislative council shall provide that the number of sworn police officers assigned to work within the geographical boundaries of the previously existing city of the first class shall not be diminished except in proportion to any diminishment in the total number of police officers serving in the county as a whole or in proportion to the diminishment of the population in the territory now encompassed by the previously existing city of the first class in comparison to the total present population of the county. For purposes of any such adjustment, the number of sworn officers assigned to work within the boundaries of the previously existing city of the first class and in the county as a whole as of the date of the certification of the consolidation referendum, and the population of the previously existing city of the first class and the county as determined by the 2000 census shall be used.***"; and

On Page 11, line 21, after "***class***", by deleting, "***or its***"; and

On Page 11, line 22, by deleting it in its entirety; and

On Page 11, line 23, by deleting "***expire***", and inserting in lieu thereof, "***but not in the county containing the city of the***

first class, or which is in effect in the county containing the city of the first class but not in the city of the first class, shall be given full force and effect in the area in which it was effective prior to the consolidation for a period of"; and

On Page 11, line 24, after the period, by inserting, "***Any ordinance, resolution, or order shall thereafter cease to be effective. However, if there are two (2) ordinances on the same subject matter, one (1) enacted by the previously existing city of the first class and one (1) enacted by the county, which are not amended or reenacted by the new consolidated government within five (5) years, then the ordinances shall remain in effect after five (5) years except that the ordinances shall cease to be effective to the extent of any dissimilarity between the ordinances.***" and

On Page 20, line 21, at the beginning of that line by inserting, "***(1)***"; and

On Page 20, after line 24, by inserting, "***(2) The consolidated local government may by ordinance provide for the differing modes of sanitation and fire services in different districts and areas within the county. If these differing modes are provided, expenditures for fire and sanitation services shall be paid from the property tax and fire district assessment applicable to the district and area. If the consolidated local government provides for differing rates of property tax assessment within different areas or districts of the county, revenues raised from these differing property tax rates and assessments shall be commensurate with the expenditures for the additional fire protection and sanitation services furnished. In regard to services furnished to residents in the present boundaries of the previously existing city of the first class and additional taxes assessed upon residents within those boundaries, the council shall provide for those services and calculate the additional property tax assessments for the residents within those boundaries considered as a single taxing and service district.***"; and

On Page 22, line 27, after "***court***", by inserting "***and the board of aldermen***"; and

On Page 23, lines 2 through 7, after the "***(2)***", by deleting them in their entirety, and inserting in lieu thereof, "***In the event that the fiscal court and the board of aldermen cannot agree within sixty (60) days after the certification of the election approving the consolidation of local governments on a plan to divide the county into twenty six (26) districts, then the members of the board of aldermen and the county commissioners of the fiscal court shall meet in common council to decide the matter. In this common council, the three (3) county commissioners shall have four (4) votes each for a total of twelve (12) votes among them and the twelve (12) members of the board of aldermen shall have one (1) vote each for a total of twelve (12) votes among them.***"; and

On Page 23, lines 8, 11, 15, 17 and 21, by renumbering subsections "***(4)***, ***(5)***, ***(6)***, ***(7)***, and ***(8)***" as subsections "***(3)***, ***(4)***, ***(5)***, ***(6)***, and ***(7)***", respectively; and

On Page 23, lines 23 through 27, by deleting them in their entirety; and

On Page 24, lines 1 through 3, by deleting them in their entirety; and

On Page, 24, line 14, after "***of***", by deleting "***combining***", and inserting in lieu thereof, "***dissolving the City of ...., and of combining the governments of***".

Floor Amendment No. 2 to **HB 325**, by Representative Webb:

On page 9, between lines 6 and 7, insert the following:

"Section 7. KRS 189A.105 is amended to read as follows:

(1) No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to such tests shall result in revocation of his driving privilege as provided in this chapter.

(2) ***A videotape shall be made of a refusal to submit to any test. The videotape shall capture the sight and sound of the refusal.***

(3)(a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and
2. That, if a test is taken and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and
3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged."; and

On page 9, line 7, delete "7." and insert in lieu thereof "8.".

Floor Amendment No. 1 to the Committee Substitute to **HB 543**, by Representative Moberly:

On page 4, line 9, after "purposes" by inserting "***, any municipally owned facility which withdraws water from a privately owned lake or reservoir which is not dependent on the Kentucky River main stem for recharge, and any municipally owned facility which is dependent in whole or in part on an inter-basin transfer for its water supply***"; and

On page 5, line 1, after "The authority" by inserting "***, after consultation with the Natural Resources and Environmental Protection Cabinet,***"; and

on line 7, after "***received***" by inserting "***. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements pursuant to KRS Chapters 224 and 151***"; and

on line 10, after "authority" by inserting "***and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151***"

Floor Amendment No. 1 to **HB 525**, by Representative Westrom:

On page 1, line 7, by deleting "***and***";

On page 1, by inserting the following between lines 7 and 8:

"***(d) Shall sign any decision to deny, reduce, or terminate a health care benefit or deny payment for a health care service; and***";

On page 1, line 8, by deleting "***(d)***" and inserting "***(e)***" in lieu thereof.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 179: Representative Weaver

HB 217: Representative Stumbo

HB 380: Representative Bratcher

HB 440: Representative Weaver

HB 465: Representative Colter

HB 506: Representative Colter

HB 581: Representatives Cherry, Geveden

HB 697: Representative Stewart

HB 706: Representative Weaver

HB 767: Representative Upchurch

HB 776: Representative Upchurch

HB 779: Representatives Barrows, Branham, Bruce, C. Belcher, Collins, Childers, DeWeese, Ford, Gooch, Johns, Marzian, Nesler, Stumbo

The following member had filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 759: Representative Weaver

Announcements

The following meetings were announced:

Education, February 23, 2000, upon adjournment

State Government, February 23, 2000, upon adjournment, Room 149

The following meeting was canceled:

Subcommittee on Education, February 24, 2000, a.m. meeting

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 24, 2000.

The motion that the House adjourn until 2:00 p.m., February 24, 2000, was adopted by voice vote.

FEBRUARY 24, 2000

THIRTY-FOURTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend John Spaulding, Kentucky Conference United Methodist Church, Louisville.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 23, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 808, by Representatives Fischer and Anderson: AN ACT relating to candidates for mayor.

HB 809, by Representative Anderson: AN ACT proposing an amendment to Section 46 of the Constitution of Kentucky relating to votes required for passage of legislation.

HB 810, by Representative Anderson: AN ACT relating to fireworks.

HB 811, by Representative Callahan: AN ACT relating to tourism development.

HB 812, by Representative Anderson: AN ACT relating to cigarettes and other retail tobacco products.

HB 813, by Representative Crall: AN ACT relating to income tax.

HB 814, by Representatives Stumbo, Ausmus, Geveden, Bather, Bruce, Childers, Gooch, Nesler, Adkins, Crimm, Yonts, Bowling, Gray, Alexander, Stacy, Palmer, Buckingham, P. Clark, Cherry, Kerr, Riggs, Collins, Ford, Stewart, Polston, Treesh, Upchurch, Vincent, Ratliff, Tapp, and Bratcher: AN ACT relating to school curriculum.

HB 815, by Representatives Ausmus, Bather, Burch, Marzian, Jenkins, Jordan, Stumbo, Gray, Miller, L. Clark, Anderson, Yonts, Stacy, Stein, Crenshaw, and Riner: AN ACT relating to minimum wage.

HB 816, by Representative Stein: AN ACT relating to crimes and punishments.

HB 817, by Representative R. Adams: AN ACT relating to motor vehicles.

HR 115, by Representative Callahan: A RESOLUTION proclaiming March 13 to March 17, 2000, to be "Teach Census Week," and requesting the Kentucky Department of Education to promote the participation of Kentucky schools in the "Census in Schools" program.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 787**

Appropriations and Revenue: **HB 793, HB 802, HB 804, HB 807**

Banking and Insurance: **HB 788, HB 790, SB 170**

Education: **HB 801, HB 803, HCR 114**

Judiciary: **HB 785, HB 786, HB 789, HB 794, HB 796, HB 797, HB 798**

Local Government: **HB 795, SB 149, SB 194, SB 197**

Natural Resources and Environment: **HB 792, HB 805, HB 806**

Seniors, Military Affairs, and Public Safety: **HCR 112**

State Government: **HB 799, HB 800, HJR 113, SB 206**

Transportation: **HB 791**

House Floor: **HR 111**

Report of Committees

The Committee on Rules reported that **HB 1** and **HB 296** have been posted for passage in the Orders of the Day for February 25, 2000.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

Health and Welfare: **HB 546**

Report of Committees (Continued)

The Committee on State Government reported **HB 537,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 537, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided~~[in KRS 61.555]~~;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4)***. A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.***~~[;]~~ Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959~~[. A member of the State Police Retirement System, a member of the County Employees Retirement System, or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current, may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday]~~;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current

service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions***;

(31) "Objective medical evidence" means[~~ medical histories;~~] reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;[~~ and~~]

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543***; and***

(34) "Month" means a calendar month.

Section 2. KRS 16.560 is amended to read as follows:

(1) The member contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 16.510 to 16.652 shall be credited; only funds from this account shall be used to return accumulated contributions of a member when required by reason of any provision of KRS 16.510 to 16.652. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member's contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contribution shall be transferred from the member's contribution account to the retirement allowance account.

(5) Included as a part of such member's contribution account shall be his accumulated contributions in the Kentucky Employees Retirement System, if any, transferred to this system.

Section 3. KRS 16.577 is amended to read as follows:

(1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) There shall be no reduction in the retirement allowance of a member who has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.

Section 4. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall ***not be eligible for an unreduced retirement allowance***[~~be less than normal retirement age~~];

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***[~~twelve (12)~~] months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No ***person's*** disability application based on the same claim of incapacity shall be accepted and considered for disability ***if that***~~[for any]~~ person~~[who]~~ has previously applied for and been denied disability benefits~~[unless it is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position]~~.

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any ***traumatic event or series of traumatic events producing a harmful change in the human organism evidenced by objective medical findings. Injury does not include the effects of the natural aging process; a communicable disease unless the risk of contracting the disease is increased by nature of the employment; or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a physical injury***~~[physical harm or damage to the human organism other than disease or mental illness]~~;

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, ***or*** disease~~[, or condition]~~ which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, ***or*** disease~~[, or a condition]~~ which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position. ***Effective August 1, 2000, if any physician of record has recommended specific lifestyle changes or medical treatments which are expected to lessen the person's incapacity and the medical evidence does not show that the individual has made a substantial attempt to comply with the recommended changes or treatment, the person's incapacity shall be presumed not to be permanent.***

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the

loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 5. KRS 16.601 is amended to read as follows:

(1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until the spouse remarries, whichever occurs first.

(2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of ***only one***~~[a]~~ beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

Section 6. KRS 16.640 is amended to read as follows:

The government and control of the system is hereby vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 16.510 to 16.652 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 16.510 to 16.652, the same rights, duties, and obligations shall apply to the board, as now apply under the provisions of KRS 61.510 to 61.692, except that members of the board, when acting for the State Police Retirement System, shall be paid a per diem of ***thirty dollars ($30)***~~[ten dollars ($10)]~~ plus actual expenses.

Section 7. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;
(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
(3) Actuarial bases, as provided for by KRS 61.670;
(4) Duties of the employer, as provided for by KRS 61.675;
(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;
(6) Retirement allowance increase, as provided for by KRS 61.691;
(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
(9) Year of service credit, as provided for by KRS 61.545;
(10) Refund of contributions, death after retirement, as provided by KRS 61.630;
(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
(12) Credit for service prior to membership date, as provided for by KRS 61.526;
(13) Transfer of dormant accounts, as provided for by KRS 61.626;
(14) Member's account, confidential, as provided for by KRS 61.661;
(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(16) Correction of errors in records, as provided for by KRS 61.685;
(17) Maximum disability benefit, as provided for by KRS 61.607;
(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
(19) Employer contributions, as provided for by KRS 61.565;
(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;
(21) Reciprocal arrangement between systems, as provided by KRS 61.680;
(22) Refund of contributions, conditions, as provided by KRS 61.625;
(23) Hospital and medical insurance plan, as provided by KRS 61.702;
(24) Death benefit, as provided by KRS 61.705;
(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;
(26) Service credit, Armed Forces, as provided by KRS 61.555;
(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;~~[and]~~
(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592***; and***
(30) Direct deposit of recipient's retirement allowance as provided in Section 32 of this Act.

SECTION 8. A NEW SECTION OF KRS 16.510 TO 16.652 IS CREATED TO READ AS FOLLOWS:

(1) There are created and established:

(a) An excess benefit plan to be known as the State Police Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 16.510 to 16.652 that would otherwise be limited by 26 U.S.C. sec. 415; and

(b) A state fund to be known as the "State Police Retirement System Excess Benefit Fund" which shall consist of

all the assets of the plan.

(2) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

Section 9. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided~~[in KRS 61.552(7) and 61.555]~~, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. ***A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** In cases where compensation

includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded.*** Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;~~[and]~~

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; ***and***

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions***;

(33) "Objective medical evidence" means~~[medical histories;]~~ reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;~~[and]~~

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543***; and***

(35) "Month" means a calendar month.

Section 10. KRS 61.520 is amended to read as follows:

(1) Each department shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall thereafter continue to participate. ***Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.***

Section 11. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) ***(a)*** All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and

who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on[~~ or after~~] the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 12. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the State Treasurer:

(a) Each member may designate one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.

(b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.

2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.

3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the State Treasurer, the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.

(c) This designation shall remain in full force and effect until changed by the member, except:

1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.

3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries.

4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.

(2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

(a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.

(d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.

(3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.

(4) When a notification of retirement has been filed at the retirement office:

(a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.

(b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.

(c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the State Treasurer, the member may designate another beneficiary on the member's notification of retirement.

(5) After the first retirement allowance payment is issued by the State Treasurer and subsequent thereto, a member shall not have the right to change his beneficiary, except that:

(a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.

(b) The estate of the retired member becomes the beneficiary if the retired member had designated a ***person***~~[spouse]~~ as beneficiary ***who was the spouse or who later married the member*** and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried ***to each other*** as of the date of the retired member's death.

(c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 13. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee~~[, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board]~~ may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, ***the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board*** may purchase service credit ***on behalf of the employee*** for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The

choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 14. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems~~[or an employee of a parted employer]~~ who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee ***participating in one (1) of the state-administered retirement systems*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) ***(a)*** An employee ***participating in one (1) of the state-administered retirement systems***~~[who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958,]~~ may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, ***2000***~~[1988]~~, service credit obtained under ***the*** subsections~~[(1) to (5), (8) to (12), (14), (15), and (17) to (25)]~~ of this section ***which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase*** shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member~~[, upon request,]~~ if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems~~[or as an employee of a parted employer]~~. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600 ***or Section 4 of this Act***.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) ***Employees***~~[Members]~~ who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) ***(a)*** Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one

hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave~~[granted prior to January 1, 1972]~~, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. ***Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one (1) of the purchases.*** The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee ***elects to stop the installment payments,*** dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph(e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds ***pursuant to the rules in 26 U.S.C. sec. 401(a)(31)*** directly from a retirement plan ***or a deferred compensation arrangement*** maintained by his employer which is a qualified plan pursuant to ***26 U.S.C. sec. 401(a). Service credit may also be purchased***[~~Section 401(a) of the Internal Revenue Code or~~] by a rollover of funds from ***a qualified retirement***[~~the~~] plan pursuant to the rules specified in ***26 U.S.C. sec. 402(c).***[~~Section 402(c) of the Internal Revenue Code and~~] The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in ***26 U.S.C. secs.***[~~Section~~] 402(c) and[~~ Section~~] 401(a)(31)[~~ of the Internal Revenue Code~~]. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump

sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(26) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

Section 15. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the

system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~discharge~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any ***employee***[~~member of the system~~] who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***[~~his honorable discharge therefrom~~], or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) ***Any employee participating in one (1) of the state-administered retirement systems***[~~A member~~] eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any ***employee participating in one (1) of the state-administered retirement systems***[~~member~~] age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***[~~any other member~~] who has sixty (60) months of service, at least twelve (12) of which are current service[~~ (or his beneficiary if the member dies prior to retirement)~~] shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any ***employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***[~~member of the Kentucky Employees Retirement System~~] age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***[~~any member of the Kentucky Employees Retirement System or the State Police Retirement System~~] who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system the full actuarial cost as determined by the system. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 16. KRS 61.575 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 17. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost ***of converting***~~[in order that]~~ the nonhazardous service ***to hazardous service from the date of participation to the date the payment is made***~~[be credited as hazardous service]~~, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) Except for the employee contribution by members of the Kentucky Employees Retirement System, the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical

examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 18. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, KRS 78.510 to 78.852, and KRS 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. ***The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.***

(2) Within ten (10) days of the receipt of the notification of retirement form ***submitted within two (2) months of the effective date of retirement***, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. ***If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.***

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office, if employment in a regular full-time position has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 19. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall ***not*** be ***eligible for an unreduced retirement allowance***~~[less than normal retirement age]~~;

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***~~[twelve (12)]~~ months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or KRS 78.510;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No ***person's*** disability application based on the same claim of incapacity shall be accepted and considered for disability ***if that***~~[for any]~~ person~~[who]~~ has previously applied for and been denied disability benefits~~[unless it is accompanied by evidence of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position]~~.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any ***traumatic event or series of traumatic events producing a harmful change in the human organism evidenced by objective medical findings. Injury does not include the effects of the natural aging process; a communicable disease unless the risk of contracting the disease is increased by nature of the employment; or a psychological, psychiatric, or stress-related change in the human organism unless it is the direct result of a*** physical ***injury***[~~harm or damage to the human organism other than disease or mental illness~~];

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, ***or*** disease[~~, or condition~~] which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, ***or*** disease[~~, or condition~~] which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position. ***Effective August 1, 2000, if any physician of record has recommended specific lifestyle changes or medical treatments which are expected to lessen the person's incapacity and the medical evidence does not show that the individual has made a substantial attempt to comply with the recommended changes or treatment, the person's incapacity shall be presumed not to be permanent.***

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

[~~(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.~~]

Section 20. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to ***twenty-seven (27)***~~[thirty (30)]~~ years.~~[When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. For employees hired on or after July 15, 1998, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.]~~

Section 21. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(1) ***The member shall notify the retirement system of his intent to apply for disability benefits from the Social Security Administration or benefits from workers' compensation. Upon receipt of approval for disability benefits from the Social Security Administration or benefits from workers' compensation, the member shall file at the retirement office copies of the approvals***~~[Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit]~~.

(2) ***The following shall be added together:***

(a) The member's gross monthly disability retirement allowance determined in accordance with Section 4 or Section 20 of this Act, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or KRS 16.576, converted to an annual amount;

(b) The member's total gross annual benefit from workers' compensation. If the member's benefit includes a lump sum payment for a period less than the member's lifetime, or attorney fees, then an annualized benefit shall be determined as follows:

1. The gross amount of any lump sum payment shall be divided by the member's life expectancy expressed in years from the effective date of the award.

2. The total gross amount of all payments paid for any period other than the member's lifetime shall be divided by the member's life expectancy, expressed in years, from the effective date of the award.

3. The totals determined in subparagraphs 1. and 2. of this paragraph shall be combined and added to the total gross annual amount of the member's lifetime benefit, if any; and

(c) The member's gross monthly disability benefit from the Social Security Administration, excluding spouse or dependent benefits, converted to an annual amount.

(3) If the projected combined ***annual***~~[monthly]~~ benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced ***as follows:***

(a) The member's annual disability retirement allowance shall be subtracted from the total determined in subsection (2) of this section.

(b) The difference shall be divided by twelve (12) and subtracted from the member's monthly retirement allowance determined in accordance with Section 4 or Section 20 of this Act, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or KRS 16.576.

(c) The actuarial reduction for the member's optional plan under KRS 61.635 or KRS 16.576 shall be applied to determine the member's monthly retirement allowance. The reduction shall apply to all retirement allowances received since the date the combined benefits exceeded one hundred percent (100%) of the higher of the member's final compensation or final rate of pay based on the effective dates of the individual benefits.~~[to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his~~

~~final rate of pay or his final compensation, whichever is greater; however,~~]

(4) the disability retirement allowance ***payable under this section*** shall not be reduced below an amount which would result from a computation of his ***retirement allowance under early retirement or his*** disability retirement allowance from the retirement system using the disabled employee's actual total service***, whichever is greater***.

(5)[~~(3)~~]The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(6)[~~(4)~~]Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date. ***Until the member files proof of the amount of Social Security and workers' compensation benefits prior to any increase which became law, the retirement system shall determine the maximum amount payable under this section based on the amount of the Social Security and workers' compensation benefits, including increases.***

(7)[~~(5)~~]Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the system if his payments under the Federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase ***the recipient's***[~~his~~] retirement allowance ***from the date Social Security or workers' compensation benefits cease or are reduced*** by ***recalculating***[~~adding to~~] his ***retirement allowance***[~~payment an amount equal to the reduction applied upon the effective retirement date~~] in accordance with[~~ subsection (2) of~~] this section.

Section 22. KRS 61.615 is amended to read as follows:

(1) If a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the board may reduce the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments made during the employment. ***The system may employ or contract for the services of individuals to investigate and report on the applicant or recipient's physical condition, engagement in gainful employment, or ability to engage in gainful employment.***

(2) If it is determined that any disabled recipient is able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified.

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize procedures consistent with KRS 61.665, including services of an examiner, in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

   (a) The member may not change his beneficiary or payment option;

   (b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

   (c) The benefit shall be reduced as provided by KRS 61.595(2);

   (d) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age; and

   (e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the system after the member's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the member is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 23. KRS 61.625 is amended to read as follows:

(1) A member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4),

reduced by the amount of any retirement allowances previously received if[~~:~~

~~(a)~~] the member's employment has been terminated and the member is not participating in the same retirement system[~~;~~

~~(b) The member is employed in an employment status as defined in KRS 61.510(21)(a) to (d) that does not require the member to participate in the system; or~~

~~(c) The member has been laid off for ninety (90) days or more~~].

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3) Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 24. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency ***prior to August 1, 1998,*** shall have his retirement payments suspended for the duration of reemployment, except as provided in subsection (7) of this section. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were

not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:

(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and

(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.

(8) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(9) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(10) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(11) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(12) (a) 1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.

2. If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(13) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's initial retirement date by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(14) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's initial retirement date.

(b) The retired member shall repay to the retirement system all benefits that the member received after reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of initial retirement, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS

61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(15) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(16) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(17) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

Section 25. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require, notwithstanding the provisions of KRS Chapters 45 and 45A;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3)[~~(a)~~] Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board[~~;~~

~~(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;~~

~~(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978]~~.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board ***may***~~[shall]~~ nominate, not less than six (6) months before a term of office of a trustee is due to expire,~~[at least]~~ three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within ***four (4)***~~[three (3)]~~ months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of ***eighty***~~[sixty]~~ dollars ***($80)***~~[($60)]~~ for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation ***and the compensation of appointees deemed to be in policy-making positions*** without limitation by ***any other***~~[the]~~ provisions ***including***~~[of]~~ KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy-making position shall be unclassified~~[and their salaries shall be determined by the board]~~. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the secretary of the Personnel Cabinet;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation ***and meet the qualification requirements under 26 U.S.C. sec. 401(a)***. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation ***or qualification under 26 U.S.C. sec. 401(a)*** shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation ***and to meet the qualification requirements under 26 U.S.C. sec. 401(a)***.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and ***may***~~[shall]~~ receive the agenda, board minutes, and other information distributed to trustees of the board ***upon request***. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 26. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, ***licensed***[~~practicing~~] in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. ***The board may employ one (1) or more qualified mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.***

(2) (a) Each employee requesting disability retirement shall ***file at***[~~furnish~~] the retirement office[~~ with~~] the names and addresses of ***all, but no fewer than*** two (2)***,***[~~ or more~~] physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. ***If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.***

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to ***one (1)***[~~two (2)~~] additional medical examiners. ***If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner.*** Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. ***If there is objective medical evidence of mental impairments, the medical examiners may request the board's mental health professional to assist in determining the level of the mental impairment.*** Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(j) The employee shall file at the retirement office the names and addresses of all physicians who perform medical examinations or procedures in conjunction with applications for benefits from the Social Security Administration or workers' compensation and shall provide copies of the reports of those examinations or procedures.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 27. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for ***twenty-seven (27)***~~[thirty (30)]~~ year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection *(2)*[~~(3)~~] of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has

service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

Section 28. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property ***or as an economic circumstance as provided in***~~[pursuant to]~~ KRS 403.190~~[(1)]~~ in an action for dissolution of marriage~~[if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2)]~~.

(3) ~~[Qualified domestic relations and]~~Child support orders for current, owed, or to-be- owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 29. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits ***as provided in Section 30 of this Act*** to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries~~[named in KRS 61.702]~~.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 30. KRS 61.702 is amended to read as follows:

(1) ***(a)*** The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System***, and shall determine the monthly contribution to be paid from the insurance fund on behalf of recipients as provided in this section***.

(b) ~~[The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.]~~ The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems~~[, who are under age sixty-five (65),]~~ to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.***

(c) Any person who chooses coverage shall pay, by payroll deduction or by another method, the difference between the total premium and the amount contributed monthly on the person's behalf as provided under this section.

(d) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial

method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) ~~[The premium required to provide hospital and medical benefits under this section shall be paid:]~~

1. ~~[Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;~~

~~2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;~~

~~3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that]~~Any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems*.*~~[;~~

~~4. Partly from subparagraphs 1., 2., or 3., except that]~~ Any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.

2. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

3.~~[5.]~~ ***Except as otherwise provided in this section,***~~[In full from]~~ the Kentucky Retirement Systems insurance fund ***shall pay a percentage of the monthly contribution*** for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) ***as follows:***

Member's Service Credit in Months	***Percent Paid***
1-47	***0%***
48-119	***25%***
120-179	***50%***
180-239	***75%***
240 or more	***100%***

~~[and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method.]~~

4. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty as defined in KRS 16.505(19), shall have his ***monthly contribution***~~[premium]~~ paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty as defined in KRS 16.505(19), shall have the ***monthly contribution***~~[premium]~~ for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.

5. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's ***monthly contribution***~~[premium]~~ to be paid by the insurance fund, according to the criteria

established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.

2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.

3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly~~[and is receiving a retirement allowance]~~ based on General Assembly service***.***~~[,]~~

(c) For retired members of the State Police Retirement System or retired members who were in a hazardous position in~~[of]~~ the Kentucky Employees Retirement System ***or***~~[and determined to be in a hazardous position, of]~~ the County Employees Retirement System, ***the insurance fund shall pay a percentage of the monthly contribution based on the member's total service credit. For the spouse and dependents of the member***~~[and determined to be in a hazardous position or of the State Police Retirement System]~~, or the beneficiary of the member, if the member designated only one (1) person as beneficiary***, the insurance fund shall pay a***~~[. The]~~ percentage of the monthly contribution~~[paid]~~ for the spouse and dependents~~[shall be]~~ based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section.

(d)~~[(c)]~~The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

Section 31. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who had a minimum of forty-eight (48) months of service, a death benefit of five thousand dollars ($5,000) shall be paid. ***If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar ($5,000) death benefit.*** Application for the death benefit made to the

Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member *or if the beneficiary was the spouse and they were divorced on the date of the retired member's death*, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

SECTION 32. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an Authorization for Deposit of Retirement Payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment form and filing the form at the retirement office in Frankfort. The last Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a Request for Payment by Check form.

(b) The request shall be approved if:

1. The recipient certifies that he does not currently have an account with a financial institution;

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program; or

3. The recipient shows that the requirement would create an undue hardship.

(c) The retirement office shall annually require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an Authorization for Direct Deposit of Retirement Payment form and file it with the retirement office.

SECTION 33. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the Kentucky Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 61.515 to 61.705 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the Kentucky Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

SECTION 34. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Employees Excess Benefit Plan established in Section 33 of this Act, the County Employees Excess Benefit Plan established in Section 41 of this Act, and the State Police Excess Benefit Plan established in Section 8 of this Act shall be administered by the board of trustees of the Kentucky Retirement Systems. The board shall have the same authority in its administration as it has in the administration of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.

(2) The plans shall constitute qualified governmental excess benefit plans as provided in 26 U.S.C. sec. 415(m).

(3) All retired members and beneficiaries of the three (3) retirement systems administered by the Kentucky Retirement Systems whose effective retirement dates are July 1, 1998, or after, and whose retirement allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plans. Each member's participation in the plans shall be determined each fiscal year and will cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.

(4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the system prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member or beneficiary for the retirement allowance.

(5) (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution for each of the three (3) plans to pay benefits each fiscal year. The required contribution for each of the three (3) plans in each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

(b) The required contribution shall be paid by the participating employers.

(c) The required contribution for each plan shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415(m)(1).

(d) The benefit liability of each plan shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets of the plans not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the plan for the current or future fiscal years or shall be paid to the appropriate retirement system as an additional employer contribution.

(6) The benefits payable from the plans shall be treated in accordance with Section 28 of this Act.

(7) The board shall promulgate administrative regulations to modify the benefits payable under the plans as necessary for the plans to be qualified under 26 U.S.C. sec. 415(m).

(8) The provisions of this section, and any administrative regulations promulgated as a result of this section, shall be applied retroactively to retired members, and beneficiaries, whose effective retirement dates are between July 1, 1998, and the effective date of this Act.

Section 35. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided[~~ in KRS 61.552(7), 61.555, and 78.530~~];

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other***

compensation", including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). ***A lump sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, sick leave except as provided in subsection (5) of Section 38 of this Act, and other items determined by the board shall be excluded.*** Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means***,***[~~:~~

~~(a)~~] for a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

[~~(b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;~~]

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;~~[and]~~

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615***; and***

(32) "Month" means a calendar month.

Section 36. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) ***(a)*** All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 37. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;~~[and]~~

(40) Disability procedure for members in hazardous positions as provided for in KRS 16.582*; and*

(41) Direct deposit of recipient's retirement allowance as provided for in Section 32 of this Act.

Section 38. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.

(3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the

member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill ***each***~~[the]~~ employer ***with whom the employee accrued sick leave*** accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

(6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

Section 39. KRS 78.640 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 40. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the County Employees Retirement System, shall be paid a per diem of ***eighty***~~[sixty]~~ dollars ***($80)***~~[($60)]~~, plus actual expenses.

(2) Expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. Nothing herein shall be construed as limiting appropriations which may be made to the system from other sources.

SECTION 41. A NEW SECTION OF KRS 78.520 TO 78.852 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the County Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement systems under KRS 78.520 to 78.852 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the County Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

SECTION 42. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, the Executive Department of government shall accept from the unified prosecutorial system all accrued annual and sick leave balances and service credits of employees leaving the unified prosecutorial system and accepting appointments to the Executive Department. These leave balances shall be attested to by the former employer of the employee and shall not exceed those limits established by statute or administrative regulation for employees of the Executive Department. This provision shall apply to Executive Department employees who were contributing to the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2000.

Section 43. The following KRS sections are repealed:

61.554 Persons employed by Legislative Research Commission for six legislative bienniums may purchase credit in Kentucky Employees Retirement System.

61.596 Service credit bonus for early retirement -- Payments by agencies -- Forfeiture upon reemployment.

The Committee Substitute No. 1 to **HB 537** is as follows:

HB 537, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 16.505 is amended to read as follows:

As used in KRS 16.510 to 16.652, unless the context otherwise requires:

(1) "System" means the State Police Retirement System created by KRS 16.510 to 16.652;

(2) "Board" means the board of trustees of the Kentucky Retirement Systems;

(3) "Employer" or "State Police" means the Department of State Police, or its successor;

(4) "Current service" means the number of years and completed months of employment as an employee subsequent to July 1, 1958, for which creditable compensation was paid by the employer and employee contributions deducted except as otherwise provided~~[in KRS 61.555]~~;

(5) "Prior service" means the number of years and completed months of employment as an employee prior to July 1, 1958, for which creditable compensation was paid to the employee by the Commonwealth. Twelve (12) months of current service in the system are required to validate prior service;

(6) "Service" means the total of current service and prior service;

(7) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the member's contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4), together with interest credited on such amounts as provided in KRS 16.510 to 16.652, and any other amounts the member shall have contributed, including interest credited;

(8) "Creditable compensation" means all salary and wages***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 16.545(4)***. A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.***~~[;]~~ Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(9) "Final compensation" at any time means the creditable compensation of a member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during the three (3) year period, multiplied by twelve (12); the three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(10) "Final rate of pay" means the actual rate upon which earnings of a member were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after

August 1, 1982, pursuant to KRS 16.545(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, one thousand nine hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, or one (1) year;

(11) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(12) "Retirement allowance" means the retirement payments to which a retired member is entitled;

(13) "Actuarially equivalent benefits" means benefits which are of equal value when computed upon the basis of actuarial tables adopted by the board, except that, in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(14) "Authorized leave of absence" means any time during which a person is absent from employment but retained in the status of an employee in accordance with the personnel policy of the Department of State Police;

(15) "Normal retirement date" means the first day of the month following a member's fifty-fifth birthday, except that for members over age fifty-five (55) on July 1, 1958, it shall mean January 1, 1959~~[. A member of the State Police Retirement System, a member of the County Employees Retirement System, or a member of the Kentucky Employees Retirement System covered by this section with twenty (20) or more years of service credit, at least fifteen (15) of which are current, may declare his "normal retirement date" to be some date prior to his fifty-fifth birthday]~~;

(16) "Disability retirement date" means the first day of the month following total and permanent disability or hazardous disability;

(17) "Dependent child" means a child en ventre sa mere and a natural or legally adopted child of the member who has neither attained age eighteen (18) nor married or who is an unmarried full-time student who has not attained age twenty-two (22);

(18) "Optional allowance" means an actuarially equivalent benefit elected by the member in lieu of all other benefits provided by KRS 16.510 to 16.652;

(19) "Act in line of duty" means an act occurring or a thing done, which, as determined by the board, was required in the performance of the duties specified in KRS 16.060. For employees in hazardous positions under KRS 61.592, an "act in line of duty" shall mean an act occurring which was required in the performance of the principal duties of the position as defined by the job description;

(20) "Early retirement date" means the retirement date declared by a member who is not less than fifty (50) years of age and has fifteen (15) years of service;

(21) "Member" means any officer included in the membership of the system as provided under KRS 16.520 whose membership has not been terminated under KRS 61.535;

(22) "Regular full-time officers" means the occupants of positions as set forth in KRS 16.010;

(23) "Hazardous disability" as used in KRS 16.510 to 16.652 means a disability which results in an employee's total incapacity to continue as an employee in a hazardous position, but the employee is not necessarily deemed to be totally and permanently disabled to engage in other occupations for remuneration or profit;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(29) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;

(30) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous***

contributions;

(31) "Objective medical evidence" means[~~ medical histories;~~] reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;

(32) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;[~~ and~~]

(33) "Participating" means an employee is currently earning service credit in the system as provided in KRS 16.543***; and***

(34) "Month" means a calendar month.

Section 2. KRS 16.560 is amended to read as follows:

(1) The member contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 16.510 to 16.652 shall be credited; only funds from this account shall be used to return accumulated contributions of a member when required by reason of any provision of KRS 16.510 to 16.652. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member's contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two and one-half percent (2.5%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contribution shall be transferred from the member's contribution account to the retirement allowance account.

(5) Included as a part of such member's contribution account shall be his accumulated contributions in the Kentucky Employees Retirement System, if any, transferred to this system.

Section 3. KRS 16.577 is amended to read as follows:

(1) Upon retirement at early retirement date, a member may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date, with years of service and final compensation being determined as of the date of his actual retirement, but the amount of the retirement allowance so determined shall be reduced to reflect the earlier commencement of benefits.

(2) There shall be no reduction in the retirement allowance of a member who has twenty (20) or more years of service credit, at least fifteen (15) of which are current service.

Section 4. KRS 16.582 is amended to read as follows:

(1) (a) Total and permanent disability means a disability which results in the member's incapacity to engage in any occupation for remuneration or profit. Loss by severance of both hands at or above the wrists, or both feet at or above the ankles, or one (1) hand above the wrist and one (1) foot above the ankle, or the complete, irrevocable loss of the sight of both eyes shall be considered as total and permanent.

(b) Hazardous disability means a disability which results in the member's total incapacity to continue as a regular full-time officer or as an employee in a hazardous position, as defined in KRS 61.592, but which does not result in the member's total and permanent incapacity to engage in other occupations for remuneration or profit.

(c) In determining whether the disability meets the requirement of this section, any reasonable accommodation provided by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered.

(d) If the board determines that the total and permanent disability of a member receiving a retirement allowance under this section has ceased, then the board shall determine if the member has a hazardous disability.

(2) Any person may qualify to retire on disability, subject to the following:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1), or 78.615(1). The service requirement shall be waived if the disability is a total and permanent disability or a hazardous disability and is a direct result of an act in line of duty;

(b) The person shall ***not be eligible for an unreduced retirement allowance***[~~be less than normal retirement age~~];

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***[~~twelve (12)~~] months after the person's last day of paid employment, as defined in KRS 16.505, as a regular full-time officer or in a regular full-time hazardous position under KRS 61.592;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No ***person's*** disability application based on the same claim of incapacity shall be accepted and considered for disability ***if that***[~~for any~~] person[~~ who~~] has previously applied for and been denied disability benefits unless it is accompanied by ***new objective medical*** evidence[~~ of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment as a regular full-time officer or in a regular full-time hazardous position~~].

(3) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The incapacity results from bodily injury, mental illness, or disease. For purposes of this section, "injury" means any ***traumatic event or series of traumatic events producing a harmful change in the human organism evidenced by objective medical findings. Injury does not include the sole effects of the natural aging process. For mental health claims, an injury is deemed to have occurred if the person suffers psychological, psychiatric, or stress-related claims as a direct result of a physical traumatic event or series of physical traumatic events***[~~physical harm or damage to the human organism other than disease or mental illness~~];

(b) The incapacity is deemed to be permanent; and

(c) The incapacity does not result directly or indirectly from:

1. Injury intentionally self-inflicted while sane or insane;

2. Injury or disease resulting from military service; or

3. Bodily injury, mental illness, ***or*** disease[~~, or condition~~] which pre-existed membership in the system or reemployment, whichever is most recent, unless:

a. The disability results from bodily injury, mental illness, ***or*** disease[~~, or a condition~~] which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

b. The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

For purposes of this subparagraph, "reemployment" shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a position as regular full-time officer or a hazardous position. ***Effective August 1, 2000, for purposes of determining permanence, consideration shall be given to medical evidence that shows that the person has not made an attempt to reasonably comply with the specific lifestyle changes or medical treatments recommended by the physicians of record.***

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and sedentary work.

(5) The disability retirement allowance shall be determined as provided in KRS 16.576, subject to the following:

(a) If the member's total service credit on his last day of paid employment in a regular full-time position is less than twenty (20) years, service shall be added beginning with his last date of paid employment and continuing to his fifty-fifth birthday. The maximum service credit added shall not exceed the total service the member had on his last day of paid employment, and the maximum service credit for calculating his retirement allowance, including his total service and service added under this section, shall not exceed twenty (20) years;

(b) If the member's total service credit on his last day of paid employment is twenty (20) or more years, then his total service credit shall be used.

(6) If the member receives a satisfactory determination of total and permanent disability or hazardous disability pursuant to KRS 61.665 and the disability is the direct result of an act in line of duty, the member's retirement allowance shall be calculated as follows:

(a) For the disabled member, benefits as provided in subsection (5) of this section except that the monthly retirement allowance payable shall not be less than twenty-five percent (25%) of the member's monthly final rate of pay; and

(b) For each dependent child of the member on his disability retirement date, who is alive at the time any particular payment is due, a monthly payment equal to ten percent (10%) of the disabled member's monthly final rate of pay; however, total maximum dependent children's benefit shall not exceed forty percent (40%) of the member's monthly final rate of pay. The payments shall be payable to each dependent child, or to a legally appointed guardian or as directed by the system.

(7) No benefit provided in this section shall be reduced as a result of any change in the extent of disability of any retired member who is age fifty-five (55) or older.

(8) If a regular full-time officer or hazardous position member has been approved for benefits under a hazardous disability, the board shall, upon request of the member, permit the member to receive the hazardous disability allowance while accruing benefits in a nonhazardous position, subject to proper medical review of the nonhazardous position's job description by the system's medical examiner.

(9) For a member of the State Police Retirement System, in lieu of the allowance provided in subsection (5) or (6) of this section, the member may be retained on the regular payroll and receive the compensation authorized by KRS 16.165, if he is qualified.

Section 5. KRS 16.601 is amended to read as follows:

(1) If the death of a member in service occurs on or after August 1, 1992, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of only one (1) beneficiary, who is his spouse, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000) and a monthly payment equal to twenty-five percent (25%) of the member's monthly final rate of pay beginning in the month following the member's death and continuing each month until death or until the spouse remarries, whichever occurs first.

(2) If the death of a member in service occurs on or after July 1, 1968, as a direct result of an "act in line of duty" and the member has on file in the retirement office at the time of his death a written designation of ***only one***~~[a]~~ beneficiary other than his spouse, who is a dependent receiving at least one-half (1/2) of his support from the deceased member, the beneficiary may elect to receive a lump-sum payment of ten thousand dollars ($10,000).

(3) In the period of time following a member's death during which dependent children survive, monthly payments shall be made for each dependent child who is alive, equal to ten percent (10%) of the deceased member's monthly final rate of pay; however, total maximum dependent children's benefits shall not be greater than forty percent (40%) of the deceased member's monthly final rate of pay at the time any particular payment is due. The payments shall commence in the month following the date of death of the member and shall be payable to the beneficiaries, or to a legally appointed guardian or as directed by the system. Benefits shall be payable under this subsection notwithstanding an election by a beneficiary to withdraw the deceased member's accumulated contributions as provided in KRS 61.625 or benefits under any other provisions of KRS 16.510 to 16.652.

(4) A beneficiary eligible for benefits under subsection (1) or (2) of this section who is also eligible for benefits under any

other provisions of KRS 16.510 to 16.652 may elect benefits under this section or any other section of KRS 16.510 to 16.652 but cannot elect to receive both.

Section 6. KRS 16.640 is amended to read as follows:

The government and control of the system is hereby vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 16.510 to 16.652 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 16.510 to 16.652, the same rights, duties, and obligations shall apply to the board, as now apply under the provisions of KRS 61.510 to 61.692, except that members of the board, when acting for the State Police Retirement System, shall be paid a per diem of *thirty dollars ($30)*[~~ten dollars ($10)~~] plus actual expenses.

Section 7. KRS 16.645 is amended to read as follows:

The following subjects shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, as provided for by KRS 61.535;
(2) Medical examiners and hearing procedures, as provided for by KRS 61.665;
(3) Actuarial bases, as provided for by KRS 61.670;
(4) Duties of the employer, as provided for by KRS 61.675;
(5) Exemption of benefits of the system for taxation, as provided for by KRS 61.690;
(6) Retirement allowance increase, as provided for by KRS 61.691;
(7) Calculation of retirement allowance, as provided for by KRS 61.595(3) and (4);
(8) Beneficiaries to be designated by member, change, rights, as provided for by KRS 61.542;
(9) Year of service credit, as provided for by KRS 61.545;
(10) Refund of contributions, death after retirement, as provided by KRS 61.630;
(11) Custodian of fund, payments made, when, as provided for by KRS 61.660;
(12) Credit for service prior to membership date, as provided for by KRS 61.526;
(13) Transfer of dormant accounts, as provided for by KRS 61.626;
(14) Member's account, confidential, as provided for by KRS 61.661;
(15) Cessation of membership, loss of benefits, as provided for by KRS 61.550;
(16) Correction of errors in records, as provided for by KRS 61.685;
(17) Maximum disability benefit, as provided for by KRS 61.607;
(18) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;
(19) Employer contributions, as provided for by KRS 61.565;
(20) Reinstatement of lost service credit, purchase of service credit, interest paid, delayed contribution and installment payments, as provided for by KRS 61.552;
(21) Reciprocal arrangement between systems, as provided by KRS 61.680;
(22) Refund of contributions, conditions, as provided by KRS 61.625;
(23) Hospital and medical insurance plan, as provided by KRS 61.702;
(24) Death benefit, as provided by KRS 61.705;
(25) Disability retirement allowance, reduction, discontinuance, as provided by KRS 61.615;
(26) Service credit, Armed Forces, as provided by KRS 61.555;
(27) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;
(28) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;[~~ and~~]
(29) Retirement of persons in hazardous positions, as provided for by KRS 61.592*; and*
(30) Direct deposit of recipient's retirement allowance as provided in Section 32 of this Act.

SECTION 8. A NEW SECTION OF KRS 16.510 TO 16.652 IS CREATED TO READ AS FOLLOWS:

(1) There are created and established:

(a) An excess benefit plan to be known as the State Police Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 16.510 to 16.652 that would otherwise be limited by 26 U.S.C. sec. 415; and

(b) A state fund to be known as the "State Police Retirement System Excess Benefit Fund" which shall consist of all the assets of the plan.

(2) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

Section 9. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided~~[in KRS 61.552(7) and 61.555]~~, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. ***A lump sum bonus, severance pay, or employer provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for***

accrued vacation leave, and other items determined by the board shall be excluded. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months;~~[and]~~

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty; ***and***

(e) Interim positions which are positions established for a one-time or recurring need not to exceed nine (9) months;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702,

"beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month***. Last day of paid employment does not mean a date the employee receives payment for accrued leave, whether by lump sum or otherwise, if that date occurs twenty-four (24) or more months after previous contributions***;

(33) "Objective medical evidence" means[~~ medical histories;~~] reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests;[~~ and~~]

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543***; and***

(35) "Month" means a calendar month.

Section 10. KRS 61.520 is amended to read as follows:

(1) Each department shall participate in the system when the Governor by appropriate executive order, the authority to issue such executive order being granted, directs such department to participate in the system. The effective date of such participation shall be fixed by the Governor in his executive order.

(2) (a) Notwithstanding the provisions of subsection (1) of this section the Governor is authorized to permit any state college or university, which he directs by appropriate executive order to participate in the system after January 1, 1972, to include its noninstructional employees in the membership of the system while excluding the instructional employees of the state college or university from membership.

(b) All employees of an agency participating under authority of subsection (2)(a) of this section shall be considered noninstructional employees except the members of the instructional staff of the state college or university who are responsible for teaching and the administrative positions which are included in the Teachers' Insurance and Annuity Association (TIAA) or the Kentucky Teachers' Retirement System.

(3) All executive orders issued under authority of this section since July 1, 1956, are hereby ratified by the General Assembly and each participating and contributing department, board, agency, corporation, mental health-mental retardation board, or entity participating since that date under such executive order is hereby declared to be a participating department under the Kentucky Employees Retirement System.

(4) Once a department participates it shall thereafter continue to participate. ***Any position initially required to participate in the Kentucky Employees Retirement System shall continue to participate as long as the position exists.***

Section 11. KRS 61.525 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating department after the date such department first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3);

(2) ***(a)*** All persons who are employees of a department on the date the department first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days following the department's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 61.515 to 61.705;

(b) All persons who are employees of a department who did not elect to participate within thirty (30) days of the date the department first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the department's date of participation;

(3) All persons who are employees of any credit union whose membership was initially limited to employees of state

government and their families and which subsequently may have been extended to local government employees and their families;

(4) All persons who were professional staff employees of the Council on Postsecondary Education or the Higher Education Assistance Authority and were contributing to the system on~~[or after]~~ the effective date of Executive Order 74-762 or 75-964, respectively, and file a written election of their desire to continue in the system and all administrative and professional staff employees of the Higher Education Assistance Authority who, on or after January 1, 1993, are not participating in another retirement plan sponsored by the Higher Education Assistance Authority;

(5) All persons who were professional staff employees of the Kentucky Authority for Educational Television on and after July 1, 1974;

(6) All persons who are employees of the Teachers' Retirement System except employees who are required to participate under the Teachers' Retirement System under KRS 161.220(4)(d);

(7) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360; and

(8) Effective January 1, 1998, employees of the Kentucky Community and Technical College System who were previously contributing members and are not required to participate in the Teachers' Retirement System as a member; employees who were previously contributing members transferred from the Cabinet for Workforce Development as provided in KRS 164.5805(1)(a) and who have not exercised the option to participate in the new Kentucky Community and Technical College personnel system as provided in KRS 164.5805(1)(e); and new employees as of July 1, 1997, who are not eligible under the Teachers' Retirement System or who are not contributing to an optional retirement plan established by the board of regents for the Kentucky Community and Technical College System.

Section 12. KRS 61.542 is amended to read as follows:

(1) Prior to the time the first retirement allowance payment is issued by the State Treasurer:

(a) Each member may designate one (1) or more persons as a principal beneficiary or beneficiaries and one (1) or more persons as contingent beneficiary or beneficiaries; or each member may designate his estate as principal or contingent beneficiary; or each member may designate a trust or trustee as principal or contingent beneficiary.

(b) If multiple persons are designated, the member shall indicate the percentage of total benefits each person is to receive.

1. If percentages are not indicated, payments will be disbursed equally to the named beneficiaries.

2. If any of the multiple beneficiaries die prior to the member's death, the remaining beneficiaries shall be entitled to the deceased beneficiary's percentage of the total benefits, and each shall receive a percentage of the deceased's share which is equal to the percentage allotted them by the member.

3. If any or all multiple beneficiaries die after the first retirement allowance has been issued by the State Treasurer, the deceased beneficiary's estate shall receive a lump-sum payment which is the actuarial equivalent of the remaining monthly payments the deceased beneficiary was entitled to receive.

(c) This designation shall remain in full force and effect until changed by the member, except:

1. A final divorce decree terminates an ex-spouse's status as beneficiary, unless the member has on file in the retirement office a beneficiary designation that redesignates the ex-spouse as beneficiary subsequent to the issuance of the divorce decree.

2. If a beneficiary or beneficiaries are convicted of any crime which prohibits that person or persons from receiving the benefits under KRS 381.280, the beneficiary or beneficiaries shall not be eligible for any of the benefits and the remaining beneficiary or beneficiaries or, if none, the member's estate, shall become the beneficiary.

3. When a notification of retirement has been filed at the retirement office, the designation of beneficiary on the notification of retirement, which shall be one (1) person, his estate, or a trust or trustee, shall supersede the designation of all previous beneficiaries.

4. When a request for refund has been filed at the retirement office, the member's estate shall become the member's beneficiary if the member dies.

(2) If the member dies prior to filing a notification of retirement or a request for refund, any retirement benefits shall be payable to the principal beneficiary, except that:

(a) If the death of the principal beneficiary or beneficiaries precedes the death of the member, or if the principal beneficiary is terminated by a divorce decree, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(b) If the principal beneficiary is the one (1) person who is the member's spouse and they are divorced on the date of the member's death, the contingent beneficiary or beneficiaries become the principal beneficiary or beneficiaries.

(c) If the member is survived by his principal beneficiary or beneficiaries who subsequently die prior to having on file at the retirement office the necessary forms prescribed under authority of KRS 61.590, the contingent beneficiary shall become the principal beneficiary or beneficiaries.

(d) If the deaths of all the principal beneficiaries and all of the contingent beneficiaries precede the death of the member, the estate of the member becomes the beneficiary.

(3) Prior to the member's retirement, a monthly benefit payable for life shall not be offered if the beneficiary is more than one (1) person, the member's estate, or a trust or trustee.

(4) When a notification of retirement has been filed at the retirement office:

(a) The designation of beneficiary on the notification of retirement shall supersede the designation of all previous beneficiaries.

(b) The beneficiary designated by the member on the member's notification of retirement shall be one (1) person, the member's estate, or a trust or trustee.

(c) If the death of the beneficiary named on the notification of retirement precedes the date the first benefit payment has been issued by the State Treasurer, the member may designate another beneficiary on the member's notification of retirement.

(5) After the first retirement allowance payment is issued by the State Treasurer and subsequent thereto, a member shall not have the right to change his beneficiary, except that:

(a) The estate of the retired member becomes the beneficiary if the date of death of the beneficiary precedes or coincides with the date of death of the retired member.

(b) The estate of the retired member becomes the beneficiary if the retired member had designated a ***person***[~~spouse~~] as beneficiary ***who was the spouse or who later married the member*** and they were divorced on the date of the retired member's death. An ex-spouse who was the named beneficiary on the member's notification of retirement shall be reinstated as the member's beneficiary for the payment options provided by KRS 61.635(2), (3), (4), and (8)(b) if they are remarried ***to each other*** as of the date of the retired member's death.

(c) The estate of the member shall not receive monthly payments if the member selected one (1) of the payment options provided by KRS 61.635(2), (3), (4), and (8)(b).

Section 13. KRS 61.545 is amended to read as follows:

(1) The board shall determine by appropriate administrative regulations how much service in any year is the equivalent of a year of service credit and how much service in any calendar month is the equivalent of a month of service credit. It shall not allow credit for more than one (1) year of service for all service rendered in any period of twelve (12) consecutive months except as provided in KRS 61.546 and in subsection (2) of this section.

(2) (a) Employees participating in one (1) of the state-administered retirement systems who are or have been employed by a school board participating in the County Employees Retirement System, a state-operated school under KRS Chapter 167, or a Kentucky institution of higher education which participates in the Kentucky Employees Retirement System, to work less than twelve (12) months each year, may purchase the additional months of service credit needed to total one (1) year of service credit except the amount purchased shall not exceed three (3) months. The employee[~~, the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board~~] may purchase the service credit by paying the retirement system the member and employer contributions calculated on the average monthly rate multiplied by the number of months to be purchased. The payment shall be received by the retirement system by December 31 immediately following the school year in which the fractional year's service occurred. If the additional service credit is not purchased by December 31 following the close of each school year, the member shall pay interest on the cost of purchasing the credit at a rate established by the board of trustees. Members who have service credit prior to July 1, 1992, or their employers, ***the state-operated school under KRS Chapter 167, the Kentucky institution of higher education, or the school board*** may purchase service credit ***on behalf of the employee*** for previous years by paying the retirement system the member and employer contributions calculated on the average monthly rate, multiplied by the number of months to be purchased plus interest at the actuarial rate.

(b) The cost of service under this subsection may be paid by both the employer and employee. The employer shall pay the employer contributions plus interest and the employee shall pay the employee contributions plus interest. The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payment are received by the retirement system.

(3) (a) An employee who is simultaneously eligible for membership in more than one (1) retirement system administered by the Kentucky Retirement Systems may, at his option, choose to participate in only one (1) of those systems. The choice, once made, shall remain in effect so long as the employee is eligible for membership in more than one (1) system.

(b) If the employee participates in more than one (1) of the retirement systems administered by the Kentucky Retirement Systems, the employee's service credit shall be divided between each system determined by dividing the employee's creditable compensation in each system by the employee's total creditable compensation in all systems.

(c) If the employee earns creditable compensation in both a hazardous position, as defined by KRS 61.592, and a nonhazardous position, the employee's service credit shall be divided between the employee's hazardous and nonhazardous positions determined by dividing the employee's creditable compensation in the hazardous and nonhazardous positions by the employee's combined hazardous and nonhazardous creditable compensation.

Section 14. KRS 61.552 is amended to read as follows:

(1) Any employee participating in one (1) of the state-administered retirement systems~~[or an employee of a parted employer]~~ who has been refunded his accumulated contributions under the provisions of KRS 16.645(22), 61.625, or 78.545(15), thereby losing service credit, may regain the credit by paying to the system from which he received the refund or refunds the amount or amounts refunded with interest at a rate determined by the board of the respective retirement system. If the participating employee dies before regaining lost service credit, the employee's beneficiary, as designated according to the requirements of the employee's retirement system, may regain the credit by paying the amount refunded with interest at a rate determined by the board of the respective retirement system. Thereafter the beneficiary shall be entitled to the benefits that are payable based upon the deceased employee's total service credit. The provisions of KRS 161.470 shall be met in order to regain the credit in the Teachers' Retirement System. KRS 21.460 shall govern with respect to regaining credit in the Judicial Retirement Plan or Legislators' Retirement Plan. The beneficiary shall make the payment within one (1) year of the date of the employee's death. The payment, including interest as determined by the board, shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(2) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the County Employees Retirement System, as provided in KRS 78.540(2), may obtain credit in the County Employees Retirement System for prior service and for current service by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(3) Any employee participating in one (1) of the state-administered retirement systems who did not elect membership in the Kentucky Employees Retirement System, as provided in KRS 61.525(2), may obtain credit in the Kentucky Employees Retirement System for prior service and for current service by paying to the system a delayed contribution payment for the service he would have received had he elected membership. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments.

(4) An employee ***participating in one (1) of the state-administered retirement systems*** may obtain credit in the Kentucky Employees Retirement System for current service between July 1, 1956, and the effective date of participation of his department by paying to the system a delayed contribution payment for the service he would have received had his department participated on July 1, 1956. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum or the employee may pay by increments. Effective August 1, 1988, each employee of the Kentucky Racing Commission who was employed by the racing commission on the date that agency first participated in the Kentucky Employees Retirement System, whether or not the employee was eligible to participate in the retirement system on that date, shall receive current service credit for all employment with the racing commission from July 1, 1956, to the date the employee first began participating in the retirement system. The cost of the service credit shall be paid at the time of each member's retirement by the racing commission and shall be credited to the retirement allowance account.

(5) ***(a)*** An employee ***participating in one (1) of the state-administered retirement systems***~~[who is or was an employee of a county participating in the County Employees Retirement System which did not participate in the system effective July 1, 1958,]~~ may obtain credit in the County Employees Retirement System for current service between July 1, 1958, and the effective date of participation of his county by paying to the County Employees Retirement System a delayed contribution payment for the service he would have received had his county participated on July 1, 1958. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer.

(b) An employee participating in the Kentucky Employees Retirement System or the County Employees Retirement System, who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for the period of his service with an area development district created pursuant to KRS 147A.050 or with a business development corporation created pursuant to KRS 155.001 to 155.230 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system in which he participates the full cost of the service credit purchased, as determined by the board's actuary. The employee may obtain credit for employment with a business development corporation only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. Payment may be by lump sum or the employee may pay by increments.

(6) After August 1, ***2000***~~[1988]~~, service credit obtained under ***the*** subsections~~[(1) to (5), (8) to (12), (14), (15), and (17) to (25)]~~ of this section ***which do not require the employee to have a minimum number of years of service credit to be eligible to make a purchase*** shall be disallowed and the recontribution of refund, including interest as determined by the board or other payment, if any, shall be paid to the member~~[, upon request,]~~ if the member does not obtain for service performed six (6) months' additional current service credit in one (1) of the state-administered retirement systems~~[or as an employee of a parted employer]~~. The service requirement shall be waived if the member dies or becomes disabled as provided for by KRS 61.600 ***or Section 4 of this Act***.

(7) The members shall not receive benefit of service for the same period of time in another public defined benefit retirement fund.

(8) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months' service if age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65) in one (1) of the retirement systems administered by the Kentucky Retirement Systems, who formerly worked for a state university in a position which would have qualified as a regular full-time position had the university been a participating department, and who did not have the option to be covered at the university by a defined benefit retirement program, or did not participate in a retirement system which can be consolidated with other accounts pursuant to KRS 61.680(2), may obtain credit in the County Employees Retirement System, the Kentucky Employees Retirement System, or the State Police Retirement System for prior and current service by paying either retirement system a delayed contribution payment for the service he would have received had his period of university employment been covered by the County Employees, Kentucky Employees Retirement System, or State Police Retirement System. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer. Payment may be by lump sum, or the employee may pay by increments.

(9) (a) Effective August 1, 1980, any county participating in the County Employees Retirement System may purchase current service, between July 1, 1958, and participation date of the county, for present employees of the county who have obtained coverage under KRS 78.540(2);

(b) Effective July 1, 1973, any department participating in the Kentucky Employees Retirement System may purchase current service between July 1, 1956, and participation date of the department, for present employees of the department who were employees on the participation date of the department and elected coverage under KRS 61.525(2);

(c) Cost of the service credit purchased under this subsection shall be determined by computing the discounted value of the additional service credit based on an actuarial formula recommended by the board's consulting actuary and approved by the board. A department shall make payment for the service credit within the same fiscal year in which the option is elected. The county shall establish a payment schedule subject to approval by the board for payment of the service credit. The maximum period allowed in a payment schedule shall be ten (10) years with interest at the rate actuarially assumed by the board; however, a shorter period is desirable and the board may approve any schedule provided it is not longer than a ten (10) year period;

(d) If a county or department elects the provisions of this subsection, any present employee who would be eligible to receive service credit under the provisions of this subsection and has purchased service credit under subsection (4) or (5) of this section shall have his payment for the service credit refunded with interest at the rate paid under KRS 61.575 or 78.640;

(e) Any payments made by a county or department under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members.

(10) Interest paid by a member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System under this section or other similar statutes under KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 prior to June 19, 1976, shall be credited to the individual member's contribution account in the appropriate retirement system and considered as accumulated contributions of the member.

(11) ***Employees***~~[Members]~~ who served as assistants to officers and employees of the General Assembly who were unable to acquire service under KRS 61.510(20) may purchase credit for the service performed after January 1, 1960, if the service purchased when added to other accumulated service will total at least forty-eight (48) months. Service credit under this section shall be obtained by the payment of a delayed contribution which shall not be picked up by the employer as described in KRS 61.560(4).

(12) ***(a)*** Effective August 1, 1988, any employee participating in one (1) of the state-administered retirement systems may purchase service credit for seasonal, emergency, or temporary employment or part-time employment averaging one hundred (100) or more hours of work per month on a calendar or fiscal year basis. If the average number of hours of work is less than one hundred (100) per month, the member shall be allowed credit only for those months he

receives creditable compensation for one hundred hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(b) Any noncertified employee of a school board may purchase service credit for part-time employment prior to the 1990-91 school year which averaged eighty (80) or more hours of work per month on a calendar or fiscal year basis by paying to the County Employees Retirement System a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 78.610(4), by the employer. Payment may be by lump sum or the employee may pay by increments. If the average number of hours of work is less than eighty (80) per month, the noncertified employee of a school board shall be allowed credit only for those months he receives creditable compensation for eighty (80) hours of work. The cost will be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 78.610(4).

(13) A retired member, who is contributing to one (1) of the state-administered retirement programs and purchases service credit under this section in the system or systems from which he is retired, shall have his retirement allowance recomputed:

(a) Upon termination from employment, if the member is contributing to the same system or systems from which he was retired; or

(b) Upon completion of six (6) months' service credit as required under subsection (6) of this section, if the member is contributing to a system other than the system or systems from which he is retired.

(14) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may obtain credit for prior or current service for any period of approved educational leave, or for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, by paying to the respective retirement system a delayed contribution payment. The employee may also obtain credit for agency-approved leave to work for a work-related labor organization if the agency subsequently participated in the County Employees Retirement System, but only if the Kentucky Retirement Systems receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(15) Any employee participating in one (1) of the state-administered retirement systems may obtain credit for prior or current service for any period of approved maternity leave~~[granted prior to January 1, 1972]~~, or for any period of approved sick leave without pay, by paying to the respective retirement system a delayed contribution payment. The delayed contribution payment shall not be picked up, as described in KRS 61.560(4), by the employer, and shall be deposited to the individual member's account.

(16) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by making installment payments in lieu of a lump-sum payment.

(a) The cost of the service shall be computed in the same manner as for a lump-sum payment which shall be the principal; and interest, at the actuarial rate in effect at the time the member elects to make the purchase compounded annually, shall be added for the period that the installments are to be made. Multiple service purchases may be combined under a single installment purchase; however, no employee may make more than one (1) installment purchase at the same time. ***Once multiple service purchases have been combined in an installment purchase, the employee may not separate the purchases or pay a portion of one of the purchases.*** The employee may elect to stop the installment payments by notifying the retirement system; may have the installment purchase recalculated to add one (1) or more additional service purchases; or may pay by lump sum the remaining principal.

(b) Twelve (12) consecutive monthly installment payments shall be made for each one thousand dollars ($1,000) or any part thereof of the total cost, except that the total number of installments shall not be less than twelve (12) and shall not exceed sixty (60).

(c) The employee shall pay the installments by payroll deduction each pay period. Upon notification by the retirement system, the employer shall report the installment payments separate from regular employee contributions on the forms or by the computer format specified by the board. The payments made under this subsection shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 61.560(4) and no employer contributions shall be paid on the installments.

(d) The retirement system shall determine how much of the total cost represents payment for one (1) month of the service to be purchased and shall credit one (1) month of service to the member's account each time this amount has been paid. The first service credited shall represent the first calendar month of the service to be purchased and each succeeding month of service credit shall represent the succeeding months of that service.

(e) If the employee ***elects to stop the installment payments,*** dies, retires, or does not continue employment in a position required to participate in the retirement system, the member, or in the case of death, the beneficiary, shall have sixty (60) days to pay the remaining principal of the purchase by lump sum. If the member or beneficiary does not pay the remaining cost, the retirement system shall refund to the member or the beneficiary the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(f) If the employer does not report installment payments on an employee for sixty (60) days, the installment purchase shall cease and the retirement system shall refund to the employee the payment, payments, or portion of a payment that does not represent a full month of service purchased.

(g) If payments have ceased under paragraph(e) or (f) of this subsection and the member later becomes a participating employee in one (1) of the three (3) systems administered by Kentucky Retirement Systems, the employee may complete the adjusted original installment purchase by lump sum or installment payments. If the employee elects to renew the installment purchase, the cost of the remaining service shall be recalculated in accordance with paragraph (a) of this subsection. If the original installment purchase was for multiple service purchases, the employee may not separate those purchases under a new installment purchase.

(h) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems may purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 by transferring funds ***pursuant to the rules in 26 U.S.C. sec. 401(a)(31)*** directly from a retirement plan ***or a deferred compensation arrangement*** maintained by his employer which is a qualified plan pursuant to ***26 U.S.C. sec. 401(a). Service credit may also be purchased***~~[Section 401(a) of the Internal Revenue Code or]~~ by a rollover of funds from ***a qualified retirement***~~[the]~~ plan pursuant to the rules specified in ***26 U.S.C. sec. 402(c).***~~[Section 402(c) of the Internal Revenue Code and]~~ The Kentucky Retirement Systems shall accept the transfer or rollover to the extent permitted under the rules specified in ***26 U.S.C. secs.***~~[Section]~~ 402(c) and~~[Section]~~ 401(a)(31)~~[of the Internal Revenue Code]~~. The amount shall be credited to the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member.

(17) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems who is age sixty-five (65) or older and has forty-eight (48) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System or, if younger, who has sixty (60) months' service credit in the Kentucky Employees Retirement System or the County Employees Retirement System may purchase credit in the system in which the employee has the service credit for up to ten (10) years service in a regular full-time position that was credited to a state or local government-administered public defined benefit plan in another state other than a defined benefit plan for teachers. The employee shall pay the full cost of the service as determined by the system. Payment may be by lump sum, or the employee may pay by increments. The employee may transfer funds directly from the other state's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws and shall provide proof that he is not eligible for a retirement benefit for the period of service from the other state's plan.

(18) After August 1, 1998, any employee participating in one (1) of the state-administered retirement systems, who has sixty (60) or more months of service in the State Police Retirement System or in a hazardous position in the Kentucky Employees Retirement System or the County Employees Retirement System, may purchase credit in the system in which the employee has the sixty (60) months of service credit for up to ten (10) years of service in a regular full-time position that was credited to a defined benefit retirement plan administered by a state or local government in another state, if the service could be certified as hazardous pursuant to KRS 61.592. The employee shall pay the full cost of the service credit as determined by the system. Payment may be by lump sum or by increments. The employee may transfer funds directly from the other unit of government's plan if eligible to the extent permitted under subsection (16)(h) of this section and to the extent permitted by the other state's laws, and the employee shall provide proof that he is not eligible for a retirement benefit for the period of service from the other unit of government's plan.

(19) Any employee participating in one (1) of the state-administered retirement systems who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) who has completed service as a volunteer in the Kentucky Peace Corps, created by KRS 154.01-720, may purchase service credit for the time served in the corps by making delayed contribution payments.

(20) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if age sixty-five (65), or at least sixty (60) months' service if under age sixty-five (65), and who was formerly employed in a regional community mental health and mental retardation services program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system may obtain credit for the period of his service in the regional community mental health and mental retardation program, by paying to the state retirement system in which he participates the full cost of the service credit purchased, as determined by the system. Payment to one (1) of the retirement systems administered by the Kentucky Retirement Systems may be made by lump sum or in increments.

(21) An employee participating in any state-administered retirement system who has at least forty-eight (48) months' service if

age sixty-five (65) or at least sixty (60) months' service if under age sixty-five (65), who was employed by a vocational technical school in a noncertified part-time position averaging eighty (80) or more hours per month, determined by using the number of months actually worked within a calendar or fiscal year, may purchase service credit in the Kentucky Employees Retirement System. The cost of the service shall be determined by computing the member and employer contributions for the period of time involved plus interest compounded annually at the current actuarial rate, which shall not be picked up by the employer as described in KRS 61.560(4).

(22) Any employee participating in one (1) of the state-administered retirement systems on June 30, 2000, may obtain credit for subsequent service with a parted employer from the Commonwealth operating for the purposes of KRS 163.475, by paying to the respective retirement system a delayed contribution payment if the respective retirement system receives a favorable private letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor. The delayed contribution payment shall be deposited to the individual member's account. The delayed contribution payment shall not be picked up by the employer as described in KRS 61.560(4).

(23) Any employee participating in the County Employees Retirement System who has at least forty-eight (48) months of service if age sixty-five (65) or at least sixty (60) months of service if under age sixty-five (65) may purchase service credit for service with a city, county, or joint city-county planning commission, if that service was not covered by a state-administered retirement system. Notwithstanding any statute to the contrary, the employee shall be entitled to a full month of service for each month or portion of month that the employee occupied the position whether or not the employee would have qualified, at the time of planning commission service, for the service under KRS 6.525. The employee shall pay to the retirement system the full cost of the service credit purchased, as determined by the board's actuary. The payment shall not be picked up, as described in KRS 78.610(4), by the employer and shall be deposited to the member's account. Payment may be by lump sum or in increments. The employee may obtain credit for service with a city, county, or joint city-county planning commission only if the Kentucky Retirement Systems receives a favorable letter ruling from the United States Internal Revenue Service or a favorable opinion letter from the United States Department of Labor.

(24) (a) Any member or retired member of one (1) of the retirement systems administered by the Kentucky Retirement Systems who is entitled to service credit for employment which was not reported in accordance with KRS 16.543, 61.543, or KRS 78.615 may obtain credit for the service by paying the employee contributions due within six (6) months of notification by the system. No interest shall be added to the contributions. The service credit shall not be credited to the member's account until the employer contributions are received. If a retired member makes the payment within six (6) months, the retired member's retirement allowance shall be adjusted to reflect the added service after the employer contributions are received by the retirement system.

(b) Any employee participating in one (1) of the retirement systems administered by Kentucky Retirement Systems who is entitled to service credit under paragraph (a) of this subsection and who has not repaid the employee contributions due within six (6) months of notification by the system may regain the credit after the six (6) months by paying to the system the employee contributions plus interest at the actuarially assumed rate from the date of initial notification under paragraph (a) of this subsection. Service credit shall not be credited to the member's account until the employer contributions are received by the retirement system. The payments shall not be picked up, as described in KRS 61.560(4), by the employer.

(25) Any employee participating in one (1) of the state-administered retirement systems may purchase service credit for employment with a public agency that would have been eligible to participate under KRS 61.520 but which did not participate in the Kentucky Employees Retirement System or a political subdivision that would have been eligible to participate under KRS 78.530 but which did not participate in the County Employees Retirement System if the former public agency or political subdivision has merged with or been taken over by a participating department or county. The cost of the service shall be determined as a delayed contribution payment for the respective retirement system. Payment may be made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or KRS 78.610(4), by the employer.

(26) Any employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems on or after August 1, 1998, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit which is not otherwise purchasable under any of the provisions of KRS 16.510 to 16.652, KRS 61.510 to 61.705, and KRS 78.510 to 78.852. The purchase price for the retirement service credit shall be calculated and paid for based on the full actuarial cost as determined by the system. The payment shall not be picked up, as described in KRS 16.545(4), KRS 61.560(4), KRS 78.610(4), by the employer, and the employee's payment shall be paid into the individual member's contribution account in the appropriate retirement system and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by increments.

(27) An employee participating in one (1) of the state-administered retirement systems, who has at least forty-eight (48) months of service if age sixty-five (65), or at least sixty (60) months of service if under age sixty-five (65), may obtain credit in the County Employees Retirement System for the period of that employee's service with a community action agency created under KRS 273.405 to 273.453 if that service was not covered by a state-administered retirement system. The member shall pay to the retirement system the full actuarial cost of the service credit purchased. Payment may be

made by lump sum or in increments. The payment shall not be picked up, as described in KRS 61.560(4) or 78.610(4), by the employer.

Section 15. KRS 61.555 is amended to read as follows:

(1) After August 1, 1998, any employee entering the Armed Forces of the United States after he first participates in the system, being on leave of absence from service and not withdrawing his accumulated contributions, shall be entitled to have credited as current service his period of active military duty in the Armed Forces of the United States, not to exceed six (6) years, if his discharge therefrom is honorable and he returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***~~[discharge]~~, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge.

(2) After August 1, 1998, any ***employee***~~[member of the system]~~ who, prior to the date he first participated in the system, terminated his employment in order to enter the Armed Forces of the United States and who returns to work with an employer participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems within two (2) years after ***completion of the period of active military duty***~~[his honorable discharge therefrom]~~, or upon the subsequent termination of any total disability which existed at the expiration of the two (2) years after discharge, shall be entitled to have credited as prior service his period of active military duty in the Armed Forces, not to exceed six (6) years.

(3) Any National Guard technician involuntarily serving on active military duty during the period between January 26, 1968, and January 1, 1970, who completes his eight (8) years' service while on military duty during this period, shall have that portion of his active military duty, necessary to the completion of eight (8) years' current service, credited to his account, as current service without having to meet the reemployment criteria.

(4) Any employee eligible for retirement as prescribed in KRS 61.559 or any employee upon completion of five (5) years of service shall receive current service credit for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (3) of this section if he pays thirty-five percent (35%) of the cost of the service based on the formula adopted by the board. The payment by the member shall not be picked up by the employer, as described in KRS 61.560(4), and shall be deposited to his individual member's account. The remaining sixty-five percent (65%) shall be paid by the state from funds appropriated specifically for the purpose and these payments shall be deposited to the respective retirement allowance accounts. If no funds are available in the special appropriation account, the system shall not accept employee payments until funds are available in the account.

(5) ***Any employee participating in one (1) of the state-administered retirement systems***~~[A member]~~ eligible to purchase military service credit under subsection (4) of this section shall receive current service credit for active military duty as provided under subsection (4) of this section without payment of the current employee contribution ratio if the member was taken prisoner by a hostile power at any time during active military service.

(6) Any ***employee participating in one (1) of the state-administered retirement systems***~~[member]~~ age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***~~[any other member]~~ who has sixty (60) months of service, at least twelve (12) of which are current service~~[(or his beneficiary if the member dies prior to retirement)]~~ shall receive current service for a maximum of four (4) years for his period of active military duty in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service under subsections (1) to (4) of this section, by paying the retirement system a delayed contribution payment as defined in KRS 61.510(22). Payment shall be by lump sum, except that members may pay by increments. The delayed contribution payment shall not be picked up, as described KRS 61.560(4), by the employer and shall be deposited to the individual member's account.

(7) Effective July 1, 1978, no veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for such pension in the future; but nothing in this section shall prohibit the purchase of credit if the military pension results from service primarily on inactive duty in a reserve component of the Armed Forces, or if the military pension is a disability pension, or is for a veteran sixty-five (65) years of age or older who is considered permanently and totally disabled. Any veteran receiving a military disability pension who retired prior to July 15, 1986, who was unable to purchase military service credit pursuant to subsection (4) or subsection (6) of this section, may make the payment required by subsection (4) or subsection (6), and his retirement benefits shall be recalculated to apply to all retirement allowances and insurance benefits received after the date of the payment. Retiree payments pursuant to subsection (4) of this section shall not be accepted unless matching state funds are available in the special appropriation account.

(8) Any ***employee participating in one (1) of the retirement systems administered by the Kentucky Retirement Systems***~~[member of the Kentucky Employees Retirement System]~~ age sixty-five (65) or older who has forty-eight (48) months of service, at least twelve (12) of which are current service, or ***if younger***~~[any member of the Kentucky Employees Retirement System or the State Police Retirement System]~~ who has sixty (60) months of service, at least twelve (12) of which are current service, shall receive one (1) month of current service for each six (6) months of service in the National Guard or the military reserves of the United States, by paying the retirement system the full actuarial cost as determined by

the system. The service shall be treated as service earned prior to participation in the system and shall not be included in the member's final compensation. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer, as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.

Section 16. KRS 61.575 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 61.510 to 61.692 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 17. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning. Hazardous positions shall include positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost ***of converting***[~~in order that~~] the nonhazardous service ***to hazardous service from the date of participation to the date the payment is made***[~~be credited as hazardous service~~], or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) Except for the employee contribution by members of the Kentucky Employees Retirement System, the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of

his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

Section 18. KRS 61.590 is amended to read as follows:

(1) A member or beneficiary eligible to receive retirement benefits under any of the provisions of KRS 61.510 to 61.705, KRS 78.510 to 78.852, and KRS 16.510 to 16.652 shall have on file at the retirement office on the form prescribed by the board, notification of retirement, giving his name, address, Social Security number, last day of employment, and other information the system may require. ***The notification of retirement shall not be filed more than six (6) months before the member's effective retirement date.***

(2) Within ten (10) days of the receipt of the notification of retirement form ***submitted within two (2) months of the effective date of retirement***, the system shall cause to be prepared an estimate of the amounts the member or beneficiary may expect to receive under the various plans available to the member or beneficiary. This information shall be recorded on a form entitled "Estimated Retirement Allowance" and forwarded to the member or beneficiary. ***If the member submits a notification of retirement form more than two (2) months prior to the effective retirement date, the system shall provide the estimated retirement allowance within forty-five (45) days of the member's effective retirement date.***

(3) The member or beneficiary shall file at the retirement office the form entitled "Estimated Retirement Allowance" after he has checked the plan of his choice, signed the document and had his signature witnessed. A member or beneficiary may not select a different plan after the first retirement allowance payment has been issued by the State Treasurer.

(4) A member or beneficiary choosing a monthly payment plan shall have on file at the retirement office his birth certificate or other acceptable evidence of date of birth. If a survivorship plan is chosen, proof of dates of birth of the beneficiary and member shall be on file at the retirement office.

(5) The effective date of normal retirement shall be the first month following the month in which employment was terminated from a regular full-time position. The effective date of disability retirement shall be the first month following the month in which the member's last day of paid employment in a regular full-time position occurred. The effective date of early retirement shall be the first month following the month the notification of retirement form is filed at the retirement office, if employment in a regular full-time position has been terminated.

(6) The effective date of a deferred retirement option as provided under KRS 16.576(5) shall be the month following age sixty-five (65), or the month following written notification from the member that he wishes to begin receiving retirement payments. In the event of the death of a member who has deferred his retirement allowance, the effective date of retirement shall be the month following the member's death.

(7) Notwithstanding the provisions of KRS 16.578 or 61.640, the effective date of a beneficiary's retirement allowance under normal, early, or disability retirement shall be as prescribed in subsection (5) or (6) of this section if the member dies before the first retirement allowance has been issued by the State Treasurer and his beneficiary becomes eligible for payments under KRS 16.578 or 61.640.

Section 19. KRS 61.600 is amended to read as follows:

(1) Any person may qualify to retire on disability, subject to the following conditions:

(a) The person shall have sixty (60) months of service, twelve (12) of which shall be current service credited under KRS 16.543(1), 61.543(1) or 78.615(1);

(b) The person shall ***not*** be ***eligible for an unreduced retirement allowance***~~[less than normal retirement age]~~;

(c) The person's application shall be on file in the retirement office no later than ***twenty-four (24)***~~[twelve (12)]~~ months after the person's last day of paid employment, as defined in KRS 61.510, in a regular full-time position, as defined in KRS 61.510 or KRS 78.510;

(d) The person shall receive a satisfactory determination pursuant to KRS 61.665; and

(e) No ***person's*** disability application based on the same claim of incapacity shall be accepted and considered for disability ***if that***~~[for any]~~ person~~[who]~~ has previously applied for and been denied disability benefits unless it is accompanied by ***new objective medical*** evidence~~[of a substantial change in the person's condition which shall satisfy subsection (4) of this section. The application shall be on file in the retirement office no later than twenty-four (24) months after the person's last day of paid employment in a regular full-time position]~~.

(2) Upon the examination of the objective medical evidence by licensed physicians pursuant to KRS 61.665, it shall be determined that:

(a) The person, since his last day of paid employment, has been mentally or physically incapacitated to perform the job, or jobs of like duties, from which he received his last paid employment. In determining whether the person may return to a job of like duties, any reasonable accommodation by the employer as provided in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630 shall be considered;

(b) The incapacity is a result of bodily injury, mental illness, or disease. For purposes of this section, "injury" means any ***traumatic event or series of traumatic events producing a harmful change in the human organism evidenced by objective medical findings. Injury does not include the sole effects of the natural aging process. For mental health claims, an injury is deemed to have occurred if the person suffers psychological, psychiatric, or stress-related claims as a direct result of a physical traumatic event or series of physical traumatic events***~~[physical harm or damage to the human organism other than disease or mental illness]~~;

(c) The incapacity is deemed to be permanent; and

(d) The incapacity does not result directly or indirectly from bodily injury, mental illness, ***or*** disease~~[, or condition]~~ which pre-existed membership in the system or reemployment, whichever is most recent. For purposes of this subsection, reemployment shall not mean a change of employment between employers participating in the retirement systems administered by the Kentucky Retirement Systems with no loss of service credit.

(3) Paragraph (d) of subsection (2) shall not apply if:

(a) The incapacity is a result of bodily injury, mental illness, ***or*** disease~~[, or condition]~~ which has been substantially aggravated by an injury or accident arising out of or in the course of employment; or

(b) The person has at least sixteen (16) years' current or prior service for employment with employers participating in the retirement systems administered by the Kentucky Retirement Systems.

(4) (a) 1. An incapacity shall be deemed to be permanent if it is expected to result in death or can be expected to last for a continuous period of not less than twelve (12) months from the person's last day of paid employment in a regular full-time position. ***Effective August 1, 2000, for purposes of determining permanence, consideration shall be given to medical evidence that shows that the person has not made an attempt to reasonably comply with the specific lifestyle changes or medical treatments recommended by the physicians of record.***

2. The determination of a permanent incapacity shall be based on the medical evidence contained in the member's file and the member's residual functional capacity and physical exertion requirements.

(b) The person's residual functional capacity shall be the person's capacity for work activity on a regular and continuing basis. The person's physical ability shall be assessed in light of the severity of the person's physical, mental, and other impairments. The person's ability to walk, stand, carry, push, pull, reach, handle, and other physical functions shall be considered with regard to physical impairments. The person's ability to understand, remember, and carry out instructions and respond appropriately to supervision, coworkers, and work pressures in a work setting shall be considered with regard to mental impairments. Other impairments, including skin impairments, epilepsy, visual sensory impairments, postural and manipulative limitations, and environmental restrictions, shall be considered in conjunction with the person's physical and mental impairments to determine residual functional capacity.

(c) The person's physical exertion requirements shall be determined based on the following standards:

1. Sedentary work shall be work that involves lifting no more than ten (10) pounds at a time and occasionally lifting or carrying articles such as large files, ledgers, and small tools. Although a sedentary job primarily involves sitting, occasional walking and standing may also be required in the performance of duties.

2. Light work shall be work that involves lifting no more than twenty (20) pounds at a time with frequent lifting or carrying of objects weighing up to ten (10) pounds. A job shall be in this category if lifting is infrequently required but walking and standing are frequently required, or if the job primarily requires sitting with pushing and pulling of arm or leg controls. If the person has the ability to perform substantially all of these activities, the person shall be deemed capable of light work. A person deemed capable of light work shall be deemed capable of sedentary work unless the person has additional limitations such as the loss of fine dexterity or inability to sit for long periods.

3. Medium work shall be work that involves lifting no more than fifty (50) pounds at a time with frequent lifting or carrying of objects weighing up to twenty-five (25) pounds. If the person is deemed capable of medium work, the person shall be deemed capable of light and sedentary work.

4. Heavy work shall be work that involves lifting no more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing up to fifty (50) pounds. If the person is deemed capable of heavy work, the person shall also be deemed capable of medium, light, and sedentary work.

5. Very heavy work shall be work that involves lifting objects weighing more than one hundred (100) pounds at a time with frequent lifting or carrying of objects weighing fifty (50) or more pounds. If the person is deemed capable of very heavy work, the person shall be deemed capable of heavy, medium, light, and

sedentary work.

~~[(5) Persons who have previously qualified for disability retirement and have had benefits discontinued shall be reevaluated under the criteria of subsection (2) of this section.]~~

Section 20. KRS 61.605 is amended to read as follows:

Upon disability retirement, an employee may receive an annual retirement allowance payable monthly during his lifetime which shall be determined in the same manner as for retirement at his normal retirement date with years of service and final compensation being determined as of the date of his disability except that service credit shall be added to the employee's total service beginning with his last date of paid employment and continuing to his sixty-fifth (65th) birthday; however, the maximum service credit added shall not exceed the total service the employee had upon his last day of paid employment, and the maximum combined service credit for calculating his disability retirement allowance, including total service and added service shall not exceed twenty-five (25) years. If, however, an employee has accumulated twenty-five (25) or more years of total service, he shall receive added service necessary to bring his combined service credit, including total and added service, to ***twenty-seven (27)***~~[thirty (30)]~~ years.~~[When the employee has accumulated total service of thirty (30) or more years, his total service shall be used in computing disability benefits. For employees hired on or after July 15, 1998, the total service and added service for determining disability benefits shall not exceed twenty-seven (27) years.]~~

Section 21. KRS 61.607 is amended to read as follows:

Notwithstanding any other provisions of KRS 16.505 to 16.652, 61.510 to 61.705, or 78.510 to 78.852, a maximum disability benefit is hereby established which shall apply, upon disability retirement, to any disabled employee's account to which service credit is added to determine disability benefits or in any case where disability benefits are determined by computing a percentage of the disabled employee's final monthly rate of pay. The maximum disability benefit shall be determined by the following formula:

(1) ***The member shall notify the retirement system of his intent to apply for disability benefits from the Social Security Administration or benefits from workers' compensation. Upon receipt of approval for disability benefits from the Social Security Administration or benefits from workers' compensation, the member shall file at the retirement office copies of the approvals***~~[Add the monthly benefit payable to the disabled employee from the retirement system, using the monthly disability retirement allowance (not optional plan) but excluding dependent children's allowances, if any, to his monthly benefit, if any, from Social Security, even though these payments may not begin for a period of time as required for qualification under the federal Social Security law, excluding spouse or dependent benefits, and his monthly benefit, if any, from workers' compensation, even though these payments may not have begun as of the date the disabled member applies for disability retirement benefits, excluding spouse or dependent children's allowances, from workers' compensation, to arrive at a projected combined monthly benefit]~~.

(2) ***The following shall be added together:***

  (a) The member's gross monthly disability retirement allowance determined in accordance with Section 4 or Section 20 of this Act, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or KRS 16.576, converted to an annual amount;

  (b) The member's total gross annual benefit from workers' compensation. If the member's benefit includes a lump sum payment for a period less than the member's lifetime, or attorney fees, then an annualized benefit shall be determined as follows:

    1. The gross amount of any lump sum payment shall be divided by the member's life expectancy expressed in years from the effective date of the award.

    2. The total gross amount of all payments paid for any period other than the member's lifetime shall be divided by the member's life expectancy, expressed in years, from the effective date of the award.

    3. The totals determined in subparagraphs 1. and 2. of this paragraph shall be combined and added to the total gross annual amount of the member's lifetime benefit, if any; and

  (c) The member's gross monthly disability benefit from the Social Security Administration, excluding spouse or dependent benefits, converted to an annual amount.

(3) If the projected combined ***annual***~~[monthly]~~ benefit exceeds one hundred percent (100%) of the disabled employee's final rate of pay or his final compensation, whichever is greater, his disability retirement allowance from the retirement system shall be reduced ***as follows:***

  (a) The member's annual disability retirement allowance shall be subtracted from the total determined in subsection (2) of this section.

  (b) The difference shall be divided by twelve (12) and subtracted from the member's monthly retirement allowance determined in accordance with Section 4 or Section 20 of this Act, excluding payments to dependent children and before any actuarial reduction for purposes of an optional retirement plan under KRS 61.635 or KRS 16.576.

  (c) The actuarial reduction for the member's optional plan under KRS 61.635 or KRS 16.576 shall be applied to

determine the member's monthly retirement allowance. The reduction shall apply to all retirement allowances received since the date the combined benefits exceeded one hundred percent (100%) of the higher of the member's final compensation or final rate of pay based on the effective dates of the individual benefits.~~[to an amount which would cause his projected combined monthly benefit to equal one hundred percent (100%) of his final rate of pay or his final compensation, whichever is greater; however,]~~

(4) the disability retirement allowance ***payable under this section*** shall not be reduced below an amount which would result from a computation of his ***retirement allowance under early retirement or his*** disability retirement allowance from the retirement system using the disabled employee's actual total service***, whichever is greater***.

(5)~~[(3)]~~The system may pay estimated benefits to a disabled employee, upon qualification for disability retirement, based on an estimate of his Social Security and workers' compensation benefits until the amounts are actually determined, at which time a final calculation of the member's actual benefits shall be determined and his account corrected retroactive to his effective retirement date.

(6)~~[(4)]~~Any increase in Social Security benefits or workers' compensation benefits which becomes law, regardless of their effective date, subsequent to the disabled employee's effective retirement date, shall not be considered in determination of the maximum benefit payable, as the maximum benefit payable is based on the amount of combined benefits under these programs as of the disabled employee's effective retirement date. ***Until the member files proof of the amount of Social Security and workers' compensation benefits prior to any increase which became law, the retirement system shall determine the maximum amount payable under this section based on the amount of the Social Security and workers' compensation benefits, including increases.***

(7)~~[(5)]~~Any disabled recipient whose potential payments from the system were reduced as provided for in this section shall advise the system if his payments under the Federal Social Security Act or Workers' Compensation Act cease at any time subsequent to his effective retirement date. Upon investigation, if the system determines that the disabled recipient continues to be eligible for disability benefits, the system may increase ***the recipient's***~~[his]~~ retirement allowance ***from the date Social Security or workers' compensation benefits cease or are reduced*** by ***recalculating***~~[adding to]~~ his ***retirement allowance***~~[payment an amount equal to the reduction applied upon the effective retirement date]~~ in accordance with~~[subsection (2) of]~~ this section.

Section 22. KRS 61.615 is amended to read as follows:

(1) If a recipient of a disability retirement allowance is, prior to his normal retirement date, employed in a position with the same or similar duties as the position from which he was disabled, except where the recipient has returned to work on a trial basis not to exceed nine (9) months, the board may reduce the retirement allowance. Each recipient of a disability retirement allowance who is engaged in gainful employment shall notify the system of any employment; otherwise, the system shall have the right to recover payments made during the employment. ***The system may employ or contract for the services of individuals to investigate and report on the applicant or recipient's physical condition, engagement in gainful employment, or ability to engage in gainful employment.***

(2) If it is determined that any disabled recipient is able to be employed in a position with the same or similar duties as the position from which he was disabled, and if the board finds that the person refused any employment considered by the board suitable to his capacity, he shall not be entitled to any allowance during the continuance of his refusal, unless in the opinion of the board his refusal was justified.

(3) The system shall have full power and exclusive authority to reduce or discontinue a disability retirement allowance and the system shall utilize procedures consistent with KRS 61.665, including services of an examiner, in determining the amount of reduction in retirement allowance under this section.

(4) If a disability retirement allowance is reduced or discontinued, the member may apply for early retirement benefits as provided under KRS 61.559, subject to the following provisions:

(a) The member may not change his beneficiary or payment option;

(b) If the member has returned to employment with an employer participating in the system from which he retired, the service and creditable compensation shall be used in recomputing his benefit, except that the member's final compensation shall not be less than the final compensation last used in determining his retirement allowance;

(c) The benefit shall be reduced as provided by KRS 61.595(2);

(d) The member shall remain eligible for reinstatement of his disability allowance upon reevaluation by the medical review board until his normal retirement age; and

(e) Upon attaining normal retirement age, the member shall receive the higher of either his disability retirement allowance or his early retirement allowance.

(5) No disability retirement allowance shall be reduced or discontinued by the system after the member's normal retirement date except in case of reemployment as provided for by KRS 61.637. If a disability retirement allowance has been reduced or discontinued, except if the member is reemployed as provided for by KRS 61.637, the retirement allowance shall be reinstated upon attainment of the member's normal retirement age to the retirement allowance prior to adjustment. No reinstated payment shall be less than the recipient is receiving upon attainment of the member's normal retirement age.

Section 23. KRS 61.625 is amended to read as follows:

(1) A member if living, or if not living, his designated beneficiary, shall have the right to request a refund of his accumulated contributions, including the amount of any employee contributions picked up by the employer pursuant to KRS 61.560(4), reduced by the amount of any retirement allowances previously received if[~~:~~

~~(a)~~] the member's employment has been terminated and the member is not participating in the same retirement system[~~;~~

~~(b) The member is employed in an employment status as defined in KRS 61.510(21)(a) to (d) that does not require the member to participate in the system; or~~

~~(c) The member has been laid off for ninety (90) days or more~~].

(2) Payments made under this section shall be in lieu of any other benefits due for the period of service under any of the provisions of KRS 16.510 to 16.652, 61.515 to 61.705, and 78.520 to 78.852, unless the period of service is regained as provided under KRS 61.552. Payments of taxable distributions made pursuant to this section shall be subject to state and federal tax as appropriate.

(3) Refund of contributions of members whose benefits have been terminated pursuant to KRS 6.696 shall be governed by that section.

Section 24. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency ***prior to August 1, 1998,*** shall have his retirement payments suspended for the duration of reemployment, except as provided in subsection (7) of this section. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7) If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:

(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and

(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.

(8) Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

(9) A retired member or his employer shall notify the retirement system if he has accepted employment with an agency that participates in the retirement system from which the member retired.

(10) If the retired member is under a contract, the member shall submit a copy of that contract to the retirement system, and the retirement system shall determine if the member is an independent contractor for purposes of retirement benefits.

(11) If a member is receiving a retirement allowance, or has filed the forms required for a retirement allowance, and is employed within one (1) month of the member's initial retirement date in a position that is required to participate in the same retirement system from which the member retired, the member's retirement shall be voided and the member shall repay to the retirement system all benefits received. The member shall contribute to the member account established for him prior to his voided retirement. The retirement allowance for which the member shall be eligible upon retirement shall be determined by total service and creditable compensation.

(12) (a) 1. A retired member of the Kentucky Employees Retirement System or the State Police Retirement System who, after initial retirement, is hired by an agency that participates in the Kentucky Employees Retirement System or the State Police Retirement System shall be considered to have been hired by the same employer.

2. If a member of the Kentucky Employees Retirement System retires from a department which participates in more than one (1) retirement system and is reemployed within one (1) month of his initial retirement date by the same department in a position participating in another retirement system, the retired member's retirement allowance shall be suspended for the first month of his retirement and the member shall repay to the retirement system all benefits received for the month.

(b) A retired member of the County Employees Retirement System who after initial retirement is hired by the county from which the member retired shall be considered to have been hired by the same employer.

(13) (a) If a hazardous member who retired prior to age fifty-five (55), or a nonhazardous member who retired prior to age sixty-five (65), is reemployed within six (6) months of the member's initial retirement date by the same employer, the member shall obtain from his previous and current employers a copy of the job description established by the employers for the position and a statement of the duties performed by the member for the position from which he retired and for the position in which he has been reemployed.

(b) The job descriptions and statements of duties shall be filed with the retirement office.

(14) If the retirement system determines that the retired member has been employed in a position with the same principal duties as the position from which the member retired:

(a) The member's retirement allowance shall be suspended during the period that begins on the month in which the member is reemployed and ends six (6) months after the member's initial retirement date.

(b) The retired member shall repay to the retirement system all benefits that the member received after

reemployment began.

(c) Upon termination, or subsequent to expiration of the six (6) month period from the date of initial retirement, the retired member's retirement allowance based on his initial retirement account shall no longer be suspended and the member shall receive the amount to which he is entitled, including an increase as provided by KRS 61.691.

(d) Except as provided in subsection (7) of this section, if the position in which a retired member is employed after initial retirement is a regular full-time position, the retired member shall contribute to a second member account established for him in the retirement system. Service credit gained after the member's date of reemployment shall be credited to the second member account.

(e) Upon termination, the retired member shall be entitled to benefits payable from his second retirement account.

(15) (a) If the retirement system determines that the retired member has not been reemployed in a position with the same principal duties as the position from which he retired, the retired member shall continue to receive his retirement allowance.

(b) If the position is a regular full-time position, the member shall contribute to a second member account in the retirement system.

(16) (a) If a retired member is reemployed at least one (1) month after initial retirement in a different position, or at least six (6) months after initial retirement in the same position, and prior to normal retirement age, the retired member shall contribute to a second member account in the retirement system and continue to receive a retirement allowance from the first member account.

(b) Service credit gained after reemployment shall be credited to the second member account. Upon termination, the retired member shall be entitled to benefits payable from the second member account.

(17) A retired member who is reemployed and contributing to a second member account shall not be eligible to purchase service credit under any of the provisions of KRS 16.510 to 16.652, KRS 61.515 to 61.705, or KRS 78.520 to 78.852 which he was eligible to purchase prior to his initial retirement.

Section 25. KRS 61.645 is amended to read as follows:

(1) The County Employees Retirement System, Kentucky Employees Retirement System, and State Police Retirement System shall be administered by the board of trustees of the Kentucky Retirement Systems composed of nine (9) members, who shall be selected as follows:

(a) The secretary of the Personnel Cabinet shall serve as trustee for as long as he occupies the position of secretary under KRS 18A.015, except as provided under subsections (5) and (6) of this section;

(b) Two (2) trustees, who shall be members or retired from the County Employees Retirement System, elected by the members and retired members of the County Employees Retirement System;

(c) One (1) trustee, who shall be a member or retired from the State Police Retirement System, elected by the members and retired members of the State Police Retirement System;

(d) Two (2) trustees, who shall be members or retired from the Kentucky Employees Retirement System, elected by the members and retired members of the Kentucky Employees Retirement System; and

(e) Three (3) trustees, appointed by the Governor of the Commonwealth. Of the three (3) trustees appointed by the Governor, one (1) shall be knowledgeable about the impact of pension requirements on local governments.

(2) The board is hereby granted the powers and privileges of a corporation, including, but not limited to, the following powers:

(a) To sue and be sued in its corporate name;

(b) To make bylaws not inconsistent with the law;

(c) To conduct the business and promote the purposes for which it was formed;

(d) To contract for investment counseling, actuarial, auditing, and other professional services as its statutory purpose may require, notwithstanding the provisions of KRS Chapters 45 and 45A;

(e) To purchase fiduciary liability insurance;

(f) To acquire, hold, sell, dispose of, pledge, lease, or mortgage any such property as its purpose may require, notwithstanding the limitations of KRS Chapters 45, 45A, and 56; and

(g) The board shall reimburse any trustee or officer for any legal expense resulting from a civil action arising out of the performance of his official duties.

(3)[~~(a)~~] Notwithstanding the provisions of subsection (1) of this section, each trustee shall serve a term of four (4) years or until his successor is duly qualified except as otherwise provided in this section. An elected trustee shall not serve more than three (3) consecutive four (4) year terms. An elected trustee who has served three (3) consecutive terms may be elected again after an absence of four (4) years from the board[~~;~~

~~(b) The trustee to be elected by the members of the County Employees Retirement System who replaces the Attorney General on the board shall have an initial term expiring on March 31, 1977, and nominations for this position and the election process shall take place within ninety (90) days after March 26, 1974, with the Attorney General serving until the elected member has been duly qualified and administered the oath of office;~~

~~(c) The term of office of the trustee elected by the membership of the Kentucky Employees Retirement System which now expires on December 10, 1975, shall be succeeded by a term expiring on March 31, 1978]~~.

(4) (a) The trustees selected by the membership of each of the various retirement systems shall be elected by ballot. For each trustee to be elected, the board ***may***~~[shall]~~ nominate, not less than six (6) months before a term of office of a trustee is due to expire,~~[at least]~~ three (3) constitutionally eligible individuals;

(b) Individuals may be nominated by the retirement system members which are to elect the trustee by presenting to the general manager, not less than four (4) months before a term of office of a trustee is due to expire, a petition, bearing the name, Social Security number, and signature of no less than one-tenth (1/10) of the number voting in the last election by the retirement system members;

(c) Within ***four (4)***~~[three (3)]~~ months of the nominations made in accordance with paragraphs (a) and (b) of this subsection, the general manager shall cause to be prepared an official ballot. The ballot shall carry the name, address, and position title of each individual nominated by the board and by petition. Provisions shall also be made for write-in votes;

(d) The ballots shall be distributed to the eligible voters by mail to their last known residence address;

(e) The ballots shall be addressed to the Kentucky Retirement Systems in care of a predetermined box number at a United States Post Office located within Kentucky. Access to this post office box shall be limited to the board's contracted auditing firm. The individual receiving a plurality of votes shall be declared elected;

(f) The eligible voter shall cast his ballot by checking a square opposite the name of the candidate of his choice. He shall record his Social Security number, sign, and mail the ballot at least thirty (30) days prior to the date the term to be filled is due to expire. The latest mailing date shall be printed on the ballot;

(g) The board's contracted auditing firm shall report in writing the outcome to the chairman of the board of trustees. Cost of an election shall be payable from the funds of the system for which the trustee is elected.

(5) Any vacancy which may occur in an appointed position shall be filled in the same manner which provides for the selection of the particular trustee, and any vacancy which may occur in an elected position shall be filled by appointment by a majority vote of the remaining trustees, and if the secretary of the Personnel Cabinet resigns his position as trustee, it shall be filled by appointment made by the Governor; however, any vacancy shall be filled only for the duration of the unexpired term.

(6) (a) Membership on the board of trustees shall not be incompatible with any other office unless a constitutional incompatibility exists. No trustee shall serve in more than one (1) position as trustee on the board; and if a trustee holds more than one (1) position as trustee on the board, he shall resign a position.

(b) A trustee shall be removed from office upon conviction of a felony or for a finding of a violation of any provision of KRS 11A.020 or 11A.040 by a court of competent jurisdiction.

(7) Trustees who do not otherwise receive a salary from the State Treasury shall receive a per diem of ***eighty***~~[sixty]~~ dollars ***($80)***~~[($60)]~~ for each day they are in session or on official duty, and they shall be reimbursed for their actual and necessary expenses in accordance with state administrative regulations and standards.

(8) The board shall meet at least once in each quarter of the year and may meet in special session upon the call of the chairman or the general manager. It shall elect a chairman and a vice chairman. A majority of the trustees shall constitute a quorum and all actions taken by the board shall be by affirmative vote of a majority of the trustees present.

(9) The board shall:

(a) Appoint or contract for the services of a general manager and fix his compensation ***and the compensation of appointees deemed to be in policy-making positions*** without limitation by ***any other***~~[the]~~ provisions ***including***~~[of]~~ KRS Chapter 18A and KRS 64.640. The general manager shall be the chief administrative officer of the board;

(b) Authorize the general manager to appoint the employees he deems necessary. Appointees deemed to be in a policy-making position shall be unclassified~~[and their salaries shall be determined by the board]~~. Other appointees shall be subject to the personnel classification system and salaries shall be subject to the secretary of the Personnel Cabinet;

(c) Require the general manager and the employees as it thinks proper to execute bonds for the faithful performance of their duties notwithstanding the limitations of KRS Chapter 62;

(d) Establish a system of accounting; and

(e) Do all things, take all actions, and promulgate all administrative regulations, not inconsistent with the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852, necessary or proper in order to carry out the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852. Notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that the provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 conform with federal statute or regulation ***and meet the qualification requirements under 26 U.S.C. sec. 401(a)***. Provisions of KRS 61.515 to 61.705, KRS 16.510 to 16.652, and KRS 78.520 to 78.852 which conflict with federal statute or regulation ***or qualification under 26 U.S.C. sec. 401(a)*** shall not be available to the member. The board shall have the authority to promulgate administrative regulations to conform with federal statute and regulation ***and to meet the qualification requirements under 26 U.S.C. sec. 401(a)***.

(10) All employees of the board shall serve during its will and pleasure. Notwithstanding any statute to the contrary, employees shall not be considered legislative agents under KRS 6.611.

(11) The Attorney General, or an assistant designated by him, may attend each meeting of the board and ***may***[~~shall~~] receive the agenda, board minutes, and other information distributed to trustees of the board ***upon request***. The Attorney General may act as legal adviser and attorney for the board, and the board may contract for legal services, notwithstanding the limitations of KRS Chapter 12 or 13B.

(12) The system shall publish an annual financial report showing all receipts, disbursements, assets, and liabilities. The annual report shall include a copy of an audit conducted in accordance with generally accepted auditing standards. The board may select an independent certified public accountant or the Auditor of Public Accounts to perform the audit. If the audit is performed by an independent certified public accountant, the Auditor of Public Accounts shall not be required to perform an audit pursuant to KRS 43.050(2)(a), but may perform an audit at his discretion. All proceedings and records of the board shall be open for inspection by the public. The system shall make copies of the audit required by this subsection available for examination by any member, retiree, or beneficiary in the office of the general manager of the Kentucky Retirement Systems and in other places as necessary to make the audit available to all members, retirees, and beneficiaries. A copy of the annual audit shall be sent to the Legislative Research Commission no later than ten (10) days after receipt by the board.

(13) All expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48.

(14) Any person adversely affected by a decision of the board, except as provided under subsection (16) of this section or KRS 61.665, involving KRS 16.510 to 16.652, KRS 61.515 to 61.705, and KRS 78.520 to 78.852, may appeal the decision of the board to the Franklin Circuit Court within sixty (60) days of the board action.

(15) (a) A trustee shall discharge his duties as a trustee, including his duties as a member of a committee:

1. In good faith;
2. On an informed basis; and
3. In a manner he honestly believes to be in the best interest of the Kentucky Retirement Systems.

(b) A trustee discharges his duties on an informed basis if, when he makes an inquiry into the business and affairs of the Kentucky Retirement Systems or into a particular action to be taken or decision to be made, he exercises the care an ordinary prudent person in a like position would exercise under similar circumstances.

(c) In discharging his duties, a trustee may rely on information, opinions, reports, or statements, including financial statements and other financial data, if prepared or presented by:

1. One (1) or more officers or employees of the Kentucky Retirement Systems whom the trustee honestly believes to be reliable and competent in the matters presented;
2. Legal counsel, public accountants, actuaries, or other persons as to matters the trustee honestly believes are within the person's professional or expert competence; or
3. A committee of the board of trustees of which he is not a member if the trustee honestly believes the committee merits confidence.

(d) A trustee shall not be considered as acting in good faith if he has knowledge concerning the matter in question that makes reliance otherwise permitted by paragraph (c) of this subsection unwarranted.

(e) Any action taken as a trustee, or any failure to take any action as a trustee, shall not be the basis for monetary damages or injunctive relief unless:

1. The trustee has breached or failed to perform the duties of the trustee's office in compliance with this section; and
2. In the case of an action for monetary damages, the breach or failure to perform constitutes willful misconduct or wanton or reckless disregard for human rights, safety, or property.

(f) A person bringing an action for monetary damages under this section shall have the burden of proving by clear and convincing evidence the provisions of paragraphs (e)1. and (e)2. of this subsection, and the burden of proving that the breach or failure to perform was the legal cause of damages suffered by the Kentucky Retirement Systems.

(g) Nothing in this section shall eliminate or limit the liability of any trustee for any act or omission occurring prior to July 15, 1988.

(16) When an order by the system substantially impairs the benefits or rights of a member, retired member, or recipient, except action which relates to entitlement to disability benefits, the affected member, retired member, or recipient may request a hearing to be held in accordance with KRS Chapter 13B. The member, retired member, or recipient aggrieved by a final order of the board following the hearing may appeal the decision to the Franklin Circuit Court, in accordance with KRS Chapter 13B.

(17) The board shall give the Kentucky Education Support Personnel Association twenty-four (24) hours notice of the board meetings, to the extent possible.

Section 26. KRS 61.665 is amended to read as follows:

(1) The board shall employ at least three (3) physicians, ***licensed***[~~practicing~~] in the state and not members of the system, upon terms and conditions it prescribes to serve as medical examiners, whose duty it shall be to pass upon all medical examinations required under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, to investigate all health or medical statements and certificates made by or in behalf of any person in connection with the payment of money to the person under KRS 61.510 to 61.705, KRS 16.505 to 16.652, and KRS 78.510 to 78.852, and who shall report in writing to the system the conclusions and recommendations upon all matters referred to them. ***The board may employ one (1) or more licensed mental health professionals as consultants to assist in making determinations where there is objective medical evidence of mental impairments.***

(2) (a) Each employee requesting disability retirement shall ***file at***[~~furnish~~] the retirement office[~~ with~~] the names and addresses of ***all, but no fewer than*** two (2)***,***[~~ or more~~] physicians who have the necessary information to report the employee's physical and mental condition. The employee shall also file at the retirement office a complete description of the job and duties from which he received his last pay as well as evidence that the employee has made a request for reasonable accommodation as provided for in 42 U.S.C. sec. 12111(9) and 29 C.F.R. Part 1630. ***If an employee fails to file, at the retirement office within six (6) months of the date the employee filed his notification of retirement, any of the information required by this subsection, the employee's application for disability benefits shall be void.***

(b) The employer shall file at the retirement office a complete description of the job and duties for which the employee was last paid and shall submit a detailed description of reasonable accommodations attempted.

(c) The board shall prescribe forms upon which medical evidence shall be recorded. The forms shall be sent to the employee's physicians with the request that the documents be completed and filed at the retirement office.

(d) The cost of a medical examination shall be paid by the employee. The physicians shall be paid a reasonable amount by the retirement system for the filing of the medical report with the retirement office, pursuant to an administrative regulation promulgated by the board.

(e) The system shall select a medical examiner to evaluate the medical evidence submitted by the employee's physician. The examiner shall recommend that disability retirement be approved, or that disability retirement be denied. If the medical examiner recommends denial of disability benefits, the system shall submit the member's application to ***one (1)***[~~two (2)~~] additional medical ***examiner***[~~examiners~~]. ***If the second medical examiner recommends approval, the application shall be submitted to a third medical examiner.*** Both of the additional medical examiners shall recommend approval of disability benefits to overturn the original recommendation. ***If there is objective medical evidence of mental impairments, the medical examiners may request the board's licensed mental health professional to assist in determining the level of the mental impairment.*** Recommendations by the examiners shall be submitted to the board for approval.

(f) If the medical examiners recommend that the employee be approved for disability retirement, the general manager shall make retirement payments in accordance with the retirement plan selected by the employee.

(g) If the medical examiners recommend that the employee be denied disability retirement, the general manager shall notify the employee of this recommendation. The employee shall have sixty (60) days to file at the retirement office additional medical information or to appeal his denial for disability benefits by filing at the retirement office a request for a formal hearing. An extension of time may be granted by the system for a medical examiner to evaluate additional medical information. The extensions of time shall not be for more than sixty (60) days for any one (1) extension, and no more than three (3) extensions shall be granted. The cumulative extension of time shall not exceed one hundred twenty (120) days. The extension of time shall end upon request of a formal hearing.

(h) The medical examiners shall be paid a reasonable amount by the retirement system for each case evaluated.

(i) Notwithstanding the foregoing provisions of this section, the system may pay for one (1) or more medical examinations requested by the examiners for the purpose of providing medical information deemed necessary by the examiners. The system may direct that a specialist be sought.

(j) The employee shall file at the retirement office the names and addresses of all physicians who perform medical examinations or procedures in conjunction with applications for benefits from the Social Security Administration or workers' compensation and shall provide copies of the reports of those examinations or procedures.

(3) Any person aggrieved by a final order or determination of the system may file at the retirement office a request that a hearing be conducted by the system in accordance with KRS Chapter 13B. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. If any extensions of time are granted by the system, they shall be as provided for in subsection (2)(g) of this section.

(a) Any person whose disability benefits have been reduced, discontinued, or denied pursuant to subsection (2)(g) of this section or KRS 61.615(1) may file at the retirement office a request for an administrative hearing with the system. The right to demand a hearing shall be limited to a period of sixty (60) days after the requester has had notice, as described in subsection (6) of this section, of the system's determination. The request shall be filed with the general manager, at the system's central office in Frankfort. The request for a hearing shall include a short and plain statement of the reasons the reduction, discontinuance, or denial of disability benefits is being contested. The request shall not operate as a stay of any reduction, discontinuance, or denial of benefits.

(b) Failure of the member to request a formal hearing within the period of time specified shall preclude the member from proceeding any further with his cause of action, except as provided in KRS 61.600(1)(e). This paragraph shall not limit the member's right to appeal to a court.

(c) The system may require the member requesting the formal hearing to submit to one (1) or more medical or psychological examinations. Notice of the time and place of the examination shall be mailed to the member or his legal representative. The system shall be responsible for the cost of the examination.

(d) A final order of the board shall be based on substantial evidence appearing in the record as a whole and shall set forth the decision of the board and the facts and law upon which the decision is based.

(e) A final order of the board which alters or amends the decision recommended pursuant to subsection (2)(g) of this section shall relate back and take effect on the date of the recommendation.

(f) All requests for a hearing pursuant to this section shall be made in writing.

(4) The board may establish an appeals committee whose members shall be appointed by the chairman and who shall have the authority to act upon the recommendations and reports of the hearing officer pursuant to this section on behalf of the board.

(5) Any person aggrieved by a final order of the board may seek judicial review after all administrative appeals have been exhausted by filing a petition for judicial review in the Franklin Circuit Court in accordance with KRS Chapter 13B.

(6) The system, pursuant to regulations, may refer an employee determined by it to be disabled to the Kentucky Office of Vocational Rehabilitation for evaluation and, if appropriate, retraining.

(a) The cost of the evaluation and retraining shall be paid by the system in accordance with the regulations established by the board.

(b) The member shall perform all acts that are necessary to enroll in and satisfy the requirements of Vocational Rehabilitation as prescribed by the board. This shall include the exchange of confidential information between Kentucky Retirement Systems and the Kentucky Office of Vocational Rehabilitation as necessary to conduct the rehabilitation process. Failure of the member to cooperate with the system or Vocational Rehabilitation may result in his disability allowance being discontinued, reduced, or denied until the member complies with the agency requests. If the refusal continues for one (1) year, all his rights to any further disability allowance shall cease.

Section 27. KRS 61.680 is amended to read as follows:

(1) Prior to August 1, 1982, every employee shall be deemed to consent and agree to any deduction from his compensation required by KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852, and to all other provisions thereof. Thereafter, employee contributions shall be picked up by the employer pursuant to KRS 61.560(4).

(2) (a) Notwithstanding any other provisions of KRS 6.500 to 6.535, 16.510 to 16.652, 61.510 to 61.692, 78.510 to 78.852 and 161.220 to 161.714, upon death, disability, or service retirement, a member's accounts under the Legislators' Retirement Plan, State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, and Teachers' Retirement System shall be consolidated for the purpose of determining eligibility and amount of benefits. Vested service credit in a retirement system, other than the Teachers' Retirement System, sponsored by a Kentucky institution of higher education and accepted by the Kentucky Employees Retirement System or the County Employees Retirement System, may be used to determine eligibility for ***twenty-seven (27)***[~~thirty (30)~~] year retirement but not the amount of benefits. The computation of benefits shall be based on the applicable formula in each system and service credit in each system, but the final

compensation shall be determined as if all service were in one (1) system. If the member has prior service in more than one (1) system, he shall obtain at least twelve (12) months' current service in each system in which he has prior service in order to validate the prior service in each system for purposes of determining consolidated benefits under this section. Upon the determination of benefits, each system shall pay the applicable percentage of total benefits.

(b) The provisions of paragraph (a) of this subsection shall be waived if the member notifies the system of his desire to maintain separate retirement accounts in the State Police Retirement System, Kentucky Employees Retirement System, or County Employees Retirement System, or if he is a member of the State Police Retirement System or is working in a hazardous position under the Kentucky Employees Retirement System or County Employees Retirement System and as a result of an act in line of duty, becomes disabled or deceased.

(c) If the member has not contributed at least one (1) year in a system in which he has prior service, his current service in the system shall be valid for purposes of determining eligibility and in computation of benefits on a consolidated basis.

(3) A member with service credit in the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System who becomes the holder of an office entitling him to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, but who does not elect within thirty (30) days after taking office in such service to participate in the plan, in accordance with KRS 6.505 or 21.360, shall be deemed to have elected to retain membership in the system in which he is a member, either the Kentucky Employees Retirement System, State Police Retirement System, or the County Employees Retirement System. In that event, the agency employing the member shall withhold employee contributions, or picked-up employee contributions after August 2, 1982, make employer contributions and remit these contributions to the system in which the member retained his membership. Any person entitled to membership in the Judicial Retirement Plan or the Legislators' Retirement Plan, who does not elect within thirty (30) days after taking office to participate in the plan, in accordance with KRS 6.505 or 21.360, and who at the time of taking office is not a contributing member of, or does not have service credit in, any of the retirement systems mentioned in this section, or the Teachers' Retirement System, shall participate in the Kentucky Employees Retirement System. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the system in which the employer of the nonelected position participates. A member of one (1) of the state-administered retirement plans who ceases to contribute to the plan as provided in KRS 21.360 and who is not employed in a nonelected position by an agency participating in the Kentucky Retirement Systems shall be deemed to have elected membership in the Kentucky Employees Retirement System.

(4) (a) Prior to July 1, 1976, a person entering the service of an employer participating in the Kentucky Employees Retirement System or the County Employees Retirement System with service credit in the Teachers' Retirement System and who desires to retain membership in the Teachers' Retirement System, and who is permitted by that system to continue, shall be exempt from participating in the Kentucky Employees Retirement System or the County Employees Retirement System.

(b) Any person who has elected to retain membership in the Teachers' Retirement System as provided in paragraph (a) of this subsection may cancel his election and participate in the system under which his position would normally participate, if he elects to cancel his option prior to January 1, 1977.

(c) Any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System and who does not elect within thirty (30) days after taking office to participate in the Legislators' Retirement Plan, in accordance with KRS 6.505, shall during his term of office participate in the Kentucky Employees Retirement System unless an election to retain membership in the Teachers' Retirement System is filed in writing within ninety (90) days after his term of office begins. No contributions may be made to the Teachers' Retirement System for the same period of service under the Legislators' Retirement Plan or the Kentucky Employees Retirement System as a member of the General Assembly, but contributions made to the Teachers' Retirement System while a member of the General Assembly shall be transferred to the Legislators' Retirement Plan, as provided for in KRS 6.535, when the member elects to join the Legislators' Retirement Plan, and service credit in the Legislators' Retirement Plan shall be granted as provided for in KRS 6.505(3).

(5) Effective July 1, 1974, any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in a position covered by one (1) of these retirement systems and his employee contributions, service credit and employer contributions made on his behalf are being transferred to the other retirement system shall contribute to the system in which his employer participates, or after August 1, 1982, the employer shall pick up the employee contributions, and no further contributions or service credit shall be transferred to the system in which he elected to retain membership, as subsection (2) of this section eliminates the necessity of the transfers.

(6) Any member of the Kentucky Employees Retirement System or County Employees Retirement System who is working in more than one (1) position covered by the same retirement system, shall have his wages and contributions consolidated and his retirement account administered as a single account. If part-time positions are involved, an accumulation of all

hours worked within the same retirement system shall be used to determine eligibility under KRS 61.510(21).

(7) Notwithstanding the provisions of subsection ***(2)***~~[(3)]~~ of this section, a person who does not have the amount of service required for service retirement in the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System, but who is a member of one (1) of the systems or is a former member of one (1) or more of the systems with valid service credit therein, shall become eligible for service retirement benefits attributable to the amount of his actual service credit in each system in which he has service credit when his combined service credit in all the systems, plus any service credit he has in the Judicial Retirement Plan, is equal to that required for service retirement in each respective system. The computation of benefits shall be based on the applicable formula in each system and service credit in each system. The final compensation shall be determined by using the creditable compensation reported to the State Police Retirement System, Kentucky Employees Retirement System, County Employees Retirement System, Legislators' Retirement Plan, or Teachers' Retirement System and only as much of the compensation earned in the Judicial Retirement Plan as is needed to satisfy the final compensation requirement applicable in the respective retirement systems.

Section 28. KRS 61.690 is amended to read as follows:

(1) All retirement allowances and other benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, and the accumulated contributions and cash securities in the funds created under KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852, are hereby exempt from any state, county, or municipal tax, and shall not be subject to execution, attachment, garnishment, or any other process, and an assignment thereof shall not be enforceable in any court. Except retirement benefits accrued or accruing to any person under the provisions of KRS 61.510 to 61.705, 16.505 to 16.652, and 78.510 to 78.852 on or after January 1, 1998, shall be subject to the tax imposed by KRS 141.020, to the extent provided in KRS 141.010 and 141.0215.

(2) A retirement allowance, a disability allowance, a member's accumulated contributions, or any other benefit under the system shall not be classified as marital property ***or as an economic circumstance as provided in***~~[pursuant to]~~ KRS 403.190~~[(1)]~~ in an action for dissolution of marriage~~[if the property of the other party to the action is exempted from a marital property classification pursuant to KRS 161.700(2)]~~.

(3) ~~[Qualified domestic relations and]~~Child support orders for current, owed, or to-be- owed child support, issued by a court or administrative agency shall be honored by the retirement systems if the orders are in compliance with the regulation adopted by the board pursuant to KRS 61.645(9)(e).

Section 29. KRS 61.701 is amended to read as follows:

(1) There is hereby created and established a state fund to be known as "Kentucky Retirement Systems Insurance Fund."

(2) The fund is created for the purpose of providing a fund separate from the retirement funds and is to be used to provide fringe benefits ***as provided in Section 30 of this Act*** to retired recipients and employees of employers participating in the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System, and to certain of their dependents or beneficiaries~~[named in KRS 61.702]~~.

(3) The fund shall be administered by the board of trustees of the Kentucky Retirement Systems and the board shall manage the assets of the fund in the same manner in which it administers the retirement funds.

Section 30. KRS 61.702 is amended to read as follows:

(1) ***(a)*** The board of trustees of Kentucky Retirement Systems shall arrange by appropriate contract or on a self-insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Kentucky Employees Retirement System, County Employees Retirement System, and State Police Retirement System***, and shall determine an amount, which shall not be less than an offered plan, to be paid from the insurance fund on behalf of recipients as provided in this section***.

(b) ~~[The board shall also arrange to provide health care coverage by health maintenance organizations, as defined in KRS 18A.225, as an alternative to group hospital and medical insurance for any person eligible for hospital and medical benefits under this section. Any person who chooses coverage by a health maintenance organization shall pay, by payroll deduction from the retirement allowance or by another method, the difference in premium between the cost of health maintenance organization coverage and the benefits to which he would be entitled under this section.]~~ The board may authorize present and future recipients of a retirement allowance from any of the three (3) retirement systems~~[, who are under age sixty-five (65),]~~ to be included in the state employees' group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***Notwithstanding the provisions of any other statute, recipients shall be included in the same class as current state employees in determining medical insurance policies and premiums.***

(c) Any person who chooses coverage shall pay, by payroll deduction or by another method, the difference between the total premium and the amount contributed monthly on the person's behalf as provided under this section.

(d) For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status, the

board shall provide a medical insurance reimbursement plan as described in subsection (7) of this section.

(2) Each employer participating in the State Police Retirement System as provided for in KRS 16.510 to 16.652, each employer participating in the County Employees Retirement System as provided in KRS 78.510 to 78.852, and each employer participating in the Kentucky Employees Retirement System as provided for in KRS 61.510 to 61.705 shall contribute to the Kentucky Retirement Systems insurance fund the amount necessary to provide hospital and medical insurance as provided for under this section. Such employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of each respective employer contribution rate to each respective retirement system determined under KRS 61.565.

(3) (a) ~~[The premium required to provide hospital and medical benefits under this section shall be paid:]~~

1. ~~[Wholly or partly from funds contributed by the recipient of a retirement allowance, by payroll deduction, or otherwise;~~

~~2. Wholly or partly from funds contributed by the Kentucky Retirement Systems insurance fund;~~

~~3. Wholly or partly from funds contributed by another state-administered retirement system under a reciprocal arrangement, except that]~~Any portion of the premium paid from the Kentucky Retirement Systems insurance fund under a reciprocal agreement shall not exceed the amount that would be payable under this section if all the member's service were in one (1) of the systems administered by the Kentucky Retirement Systems.~~[;~~

~~4. Partly from subparagraphs 1., 2., or 3., except that]~~ Any premium for hospital and medical insurance over the amount contributed by the Kentucky Retirement Systems insurance fund or another state-administered retirement system under a reciprocal agreement shall be paid by the recipient.

2. If the board provides for cross-referencing of insurance premiums, the employer's contribution for the working member or spouse shall be applied toward the premium, and the Kentucky Retirement Systems insurance fund shall pay the balance, not to exceed the monthly contribution.

3.~~[5.]~~ ***Except as otherwise provided in this section,***~~[In full from]~~ the Kentucky Retirement Systems insurance fund ***shall pay a percentage of the monthly premium*** for all recipients of a retirement allowance from any of the three (3) retirement systems where such recipient is a retired former member of one (1) or more of the three (3) retirement systems (not a beneficiary or dependent child receiving benefits) ***as follows:***

Member's Service Credit in Months	***Percent Paid***
1-47	***0%***
48-119	***25%***
120-179	***50%***
180-239	***75%***
240 or more	***100%***

~~[and had two hundred and forty (240) months or more of service upon retirement. Should such recipient have less than two hundred forty (240) months of service but have at least one hundred eighty (180) months of service, seventy-five percent (75%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining twenty-five percent (25%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred eighty (180) months of service but have at least one hundred twenty (120) months of service, fifty percent (50%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. Should such recipient have less than one hundred twenty (120) months of service but have at least forty-eight (48) months of service, twenty-five percent (25%) of such premium shall be paid from the insurance fund provided such recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method.]~~

4. Notwithstanding the foregoing provisions of this subsection, a State Police Retirement System member or a hazardous position employee, as defined in KRS 61.592, who becomes disabled in the line of duty as defined in KRS 16.505(19), shall have his premium paid in full as if he had two hundred forty (240) months or more of service. Further, a State Police Retirement System member or a hazardous position employee as defined in KRS 61.592, who is killed in the line of duty as defined in KRS 16.505(19), shall have the premium for the beneficiary, if the beneficiary is the member's spouse, and for each dependent child paid so long as they individually remain eligible for a monthly retirement benefit.

5. "Months of service" as used in this section shall mean the total months of combined service used to determine benefits under any or all of the three (3) retirement systems, except service added to determine disability benefits shall not be counted as "months of service."

(b) For a member electing insurance coverage through the Kentucky Retirement Systems, "months of service" shall include, in addition to service as described in paragraph (a) of this subsection, service credit in one of the other state-administered retirement plans.

1. Effective August 1, 1998, the Kentucky Retirement Systems shall compute the member's combined service, including service credit in another state-administered retirement plan, and calculate the portion of the member's premium to be paid by the insurance fund, according to the criteria established in paragraph (a) of this subsection. Each state-administered retirement plan annually shall pay to the insurance fund the percentage of the system's cost of the retiree's monthly contribution for single coverage for hospital and medical insurance which shall be equal to the percentage of the member's number of months of service in the other state-administered retirement plan divided by his total combined service. The amounts paid by the other state-administered retirement plans and the insurance fund shall not be more than one hundred percent (100%) of the monthly contribution adopted by the respective boards of trustees.
2. A member may not elect coverage for hospital and medical benefits under this subsection through more than one (1) of the state-administered retirement plans.
3. A state-administered retirement plan shall not pay any portion of a member's monthly contribution for medical insurance unless the member is a recipient or annuitant of the plan.

(4) (a) Group rates under the hospital and medical insurance plan shall be made available to the spouse, dependents, and disabled children, regardless of the disabled child's age, of a recipient who is a former member or the beneficiary, if the premium for the spouse, dependent, disabled child, or beneficiary hospital and medical insurance is paid by payroll deduction from the retirement allowance or by another method. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(b) The other provisions of this section notwithstanding, the insurance fund shall pay a percentage of the monthly contribution for the spouse and dependents of a recipient who was a member of the General Assembly~~[and is receiving a retirement allowance]~~ based on General Assembly service***.***~~[,]~~

(c) For retired members of the State Police Retirement System or retired members who were in a hazardous position in~~[of]~~ the Kentucky Employees Retirement System ***or***~~[and determined to be in a hazardous position, of]~~ the County Employees Retirement System, ***the insurance fund shall pay a percentage of the monthly premium based on the member's total service credit. For the spouse and dependents of the member***~~[and determined to be in a hazardous position or of the State Police Retirement System]~~, or the beneficiary of the member, if the member designated only one (1) person as beneficiary***, the insurance fund shall pay a***~~[. The]~~ percentage of the monthly contribution~~[paid]~~ for the spouse and dependents~~[shall be]~~ based solely on the member's service with the State Police Retirement System or service in a hazardous position using the formula in subsection (3)(a) of this section.

(d)~~[(c)]~~The insurance fund shall continue the same level of coverage for a recipient who was a member of the County Employees Retirement System after the age of sixty-five (65) as before the age of sixty-five (65), if the recipient is not eligible for Medicare coverage. If the insurance fund provides coverage for the spouse or dependents or beneficiary of a former member of the County Employees Retirement System, the insurance fund shall continue the same level of coverage for the spouse or dependent or beneficiary after the age of sixty-five (65) as before the age of sixty-five (65), if the spouse or dependent or beneficiary is not eligible for Medicare coverage.

(5) After July 1, 1998, notwithstanding any other provision to the contrary, a member who holds a judicial office but did not elect to participate in the Judicial Retirement Plan and is participating instead in the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System, as provided in KRS 61.680, and who has at least twenty (20) years of total service, one-half (1/2) of which is in a judicial office, shall receive the same hospital and medical insurance benefits, including paid benefits for spouse and dependents, as provided to persons retiring under the provisions of KRS 21.427. The Administrative Office of the Courts shall pay the cost of the medical insurance benefits provided by this subsection.

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7) The board shall promulgate an administrative regulation to establish a medical insurance reimbursement plan to provide reimbursement for hospital and medical insurance premiums of recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky and having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly premium determined under subsection (3) of this section. The plan shall not be made available if all recipients are eligible for the same coverage as recipients living in Kentucky.

Section 31. KRS 61.705 is amended to read as follows:

(1) Upon the death of a retired member of the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System who had a minimum of forty-eight (48) months of service, a death benefit of five thousand dollars ($5,000) shall be paid. *If the retired member had more than one (1) account in the Kentucky Employees Retirement System, County Employees Retirement System, or State Police Retirement System, the system shall pay only one (1) five thousand dollar ($5,000) death benefit.* Application for the death benefit made to the Kentucky Retirement Systems shall include acceptable evidence of death and of the eligibility of the applicant to act on the deceased retired member's behalf.

(2) The death benefit shall be paid to a beneficiary named by the retired member. Upon retirement or any time thereafter, the retired member may designate on the form prescribed by the board, death benefit designation, an individual, his estate, a trust or trustee as the beneficiary of the death benefit. The beneficiary for the death benefit may or may not be the same beneficiary designated in accordance with KRS 61.590(1). If the beneficiary designated under this section dies prior to the member *or if the beneficiary was the spouse and they were divorced on the date of the retired member's death*, the retired member's estate shall become the beneficiary, unless the retired member has filed a subsequent death benefit designation.

SECTION 32. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) A recipient who begins receiving a retirement allowance August 1, 2000, or after, from the Kentucky Employees Retirement System, the County Employees Retirement System, or the State Police Retirement System shall have the retirement allowance paid by electronic fund transfer to a financial institution designated by the recipient.

(2) When an individual becomes eligible to receive a monthly retirement allowance, the retirement system shall provide an Authorization for Deposit of Retirement Payment form to the recipient to have the monthly retirement allowance deposited to an account in a financial institution.

(3) The recipient and the financial institution shall provide the information and authorizations required for the electronic transfer of funds from the State Treasurer's office to the designated financial institution.

(4) At any time while receiving a retirement allowance, the recipient may change the designated institution by completing a new Authorization for Deposit of Retirement Payment form and filing the form at the retirement office in Frankfort. The last Authorization for Deposit of Retirement Payment on file at the retirement office shall control the electronic transfer of the recipient's retirement allowance.

(5) (a) A recipient may request to be paid by check issued by the State Treasurer instead of by electronic transfer by completing and filing at the retirement office a Request for Payment by Check form.

(b) The request shall be approved if:

1. The recipient certifies that he does not currently have an account with a financial institution;

2. The recipient's bank certifies that it does not participate in the electronic funds transfer program; or

3. The recipient shows that the requirement would create an undue hardship.

(c) The retirement office shall, every five (5) years, require the recipient to certify that the original conditions under which he requested payment by check continue. If the original conditions do not exist, the recipient shall complete an Authorization for Direct Deposit of Retirement Payment form and file it with the retirement office.

SECTION 33. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the Kentucky Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement system under KRS 61.515 to 61.705 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the Kentucky Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

SECTION 34. A NEW SECTION OF KRS 61.515 TO 61.705 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Employees Excess Benefit Plan established in Section 33 of this Act, the County Employees Excess Benefit Plan established in Section 41 of this Act, and the State Police Excess Benefit Plan established in Section 8 of this Act shall be administered by the board of trustees of the Kentucky Retirement Systems. The board shall have the same authority in its administration as it has in the administration of the Kentucky Employees Retirement System, the County Employees Retirement System, and the State Police Retirement System.

(2) The plans shall constitute qualified governmental excess benefit plans as provided in 26 U.S.C. sec. 415(m).

(3) All retired members and beneficiaries of the three (3) retirement systems administered by the Kentucky Retirement Systems whose effective retirement dates are July 1, 1998, or after, and whose retirement allowances have been limited by 26 U.S.C. sec. 415 shall be participants in the plans. Each member's participation in the plans shall be determined each fiscal year and will cease for any year in which the retirement allowance is not limited by 26 U.S.C. sec. 415.

(4) A participant shall receive a benefit equal to the difference between the retirement allowance otherwise payable from the system prior to any reduction or limitation required by 26 U.S.C. sec. 415 and the actual retirement allowance payable as limited by 26 U.S.C. sec. 415. The benefit shall be subject to withholding for applicable state and federal taxes. The benefit shall be paid in accordance with the retirement payment option selected by the member or beneficiary for the retirement allowance.

(5) (a) The board, in accordance with the recommendation of the actuary, shall determine the required contribution for each of the three (3) plans to pay benefits each fiscal year. The required contribution for each of the three (3) plans in each fiscal year shall be the total amount of benefits payable under this section to all participants plus the amount required to pay the administrative expenses of the plan and the employer's share of any employment taxes on the benefits paid from the plan.

(b) The required contribution shall be paid by the participating employers.

(c) The required contribution for each plan shall be deposited into the separate fund. The plan is intended to be exempt from federal income tax under 26 U.S.C. sec. 115 and 26 U.S.C. sec. 415(m)(1).

(d) The benefit liability of each plan shall be determined on a fiscal year basis, and contributions shall not be accumulated to pay benefits in future fiscal years. Any assets of the plans not used to pay benefits in the current fiscal year shall be used for payment of the administrative expenses of the plan for the current or future fiscal years or shall be paid to the appropriate retirement system as an additional employer contribution.

(6) The benefits payable from the plans shall be treated in accordance with Section 28 of this Act.

(7) The board shall promulgate administrative regulations to modify the benefits payable under the plans as necessary for the plans to be qualified under 26 U.S.C. sec. 415(m).

(8) The provisions of this section, and any administrative regulations promulgated as a result of this section, shall be applied retroactively to retired members, and beneficiaries, whose effective retirement dates are between July 1, 1998, and the effective date of this Act.

Section 35. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided[~~ in KRS 61.552(7), 61.555, and 78.530~~];

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1,

1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees***, including payments for compensatory time,*** paid to the employee as a result of services performed for the employer ***or for time during which the member is on paid leave,*** which are includable on the member's federal form W-2 wage and tax statement ***under the heading "wages, tips, other compensation"***, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). ***A lump sum bonus, severance pay, or employer-provided payment for purchase of service credit shall be included as creditable compensation but shall be averaged over the employee's service with the employer.*** If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. ***Living allowances, expense reimbursements, payments received after the date of termination of employment for accrued vacation leave, sick leave except as provided in subsection (5) of Section 38 of this Act, and other items determined by the board shall be excluded.*** Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means***,***[~~:~~

~~(a)~~] for a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used;

[~~(b) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;~~]

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8) hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;[~~ and~~]

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615***; and***

(32) "Month" means a calendar month.

Section 36. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) ***(a)*** All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;

(b) All persons who are employees of a county who did not elect to participate within thirty (30) days of the date the county first participated in the system or within thirty (30) days of their return to active service and who subsequently elect to participate the first day of a month after the county's date of participation; and

(3) All persons electing coverage in the system under KRS 78.530(3)(d).

(4) The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(5) Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

Section 37. KRS 78.545 is amended to read as follows:

The following matters shall be administered in the same manner subject to the same limitations and requirements as provided for the Kentucky Employees Retirement System as follows:

(1) Cessation of membership, conditions, as provided for by KRS 61.535;

(2) Statement of member and employer, as provided for by KRS 61.540;

(3) Beneficiary to be designated by member, change, rights, as provided for by KRS 61.542;

(4) Service credit determination, as provided for by KRS 61.545;

(5) Cessation of membership, loss of benefits, as provided for by KRS 61.550;

(6) Service credit, Armed Forces, as provided for by KRS 61.555;

(7) Normal and early retirement eligibility requirements, as provided for by KRS 61.559;

(8) Retirement allowance increases as provided for by KRS 61.691;

(9) Retirement application procedure, effective retirement date, as provided for by KRS 61.590;

(10) Disability retirement, conditions, as provided for by KRS 61.600;

(11) Disability retirement, allowance, as provided for by KRS 61.605;

(12) Medical examination after disability retirement, as provided for by KRS 61.610;

(13) Disability retirement allowance, reduction, as provided for by KRS 61.615;

(14) Determination of retirement allowance, as provided for by KRS 61.595;

(15) Refund of contributions, conditions, as provided for by KRS 61.625;

(16) Refund of contributions, death after retirement, as provided for by KRS 61.630;

(17) Optional retirement plans, as provided for by KRS 61.635;

(18) Suspension of retirement payments on reemployment, reinstatement, as provided for by KRS 61.637;

(19) Death before retirement, beneficiary's options, as provided for by KRS 61.640;

(20) Board of trustees, conflict of interest, as provided for by KRS 61.655;

(21) Custodian of funds, payments made, when, as provided for by KRS 61.660;

(22) Medical examiners and hearing procedures, as provided for by KRS 61.665;

(23) Actuarial bases, as provided for by KRS 61.670;

(24) Employer's administrative duties, as provided for by KRS 61.675;

(25) Correction of errors in records, as provided for by KRS 61.685;

(26) Exemptions of retirement allowances, as provided for by KRS 61.690;

(27) Credit for service prior to membership date, as provided for by KRS 61.526;

(28) Creditable compensation of fee officers, as provided for by KRS 61.541;

(29) Transfer of dormant accounts, as provided for by KRS 61.626;

(30) Members' account, confidential, as provided for by KRS 61.661;

(31) Retirement plan for employees determined to be in a hazardous position, as provided for by KRS 61.592;

(32) Maximum disability benefit, as provided for by KRS 61.607;

(33) Consent of employees to deductions and reciprocal arrangement between systems, as provided for by KRS 61.680;

(34) Employer contributions, as provided for by KRS 61.565;

(35) Recontribution and delayed contribution payments, purchase of service credit, interest, and installment payments, as provided for by KRS 61.552;

(36) Hospital and medical insurance plan, as provided by KRS 61.702;

(37) Death benefit, as provided by KRS 61.705;

(38) Reinstated employee, contributions on creditable compensation, as provided for by KRS 61.569;

(39) Statement to be made under oath, good faith reliance, as provided for in KRS 61.699;~~[and]~~

(40) Disability procedure for members in hazardous positions as provided for in KRS 16.582*; and*

(41) Direct deposit of recipient's retirement allowance as provided for in Section 32 of this Act.

Section 38. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) Participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section.

(3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in

months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill ***each***[~~the~~] employer ***with whom the employee accrued sick leave*** accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) As an alternative to subsections (1), (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation.

(6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

Section 39. KRS 78.640 is amended to read as follows:

(1) The members' contribution account shall be the account to which all members' contributions, or contributions picked up by the employer after August 1, 1982, and interest allowances as provided in KRS 78.510 to 78.852 shall be credited. From this account shall be paid the accumulated contributions of a member required to be returned to him upon withdrawal, or paid in the event of his death before retirement. ***Prior to the member's retirement, death, or refund in accordance with Section 23 of this Act, no funds shall be made available from the member contribution account.***

(2) Each member's contribution or contribution picked up by the employer shall be credited to the individual account of the contributing member.

(3) Each member on June 30 of each year shall have his individual account credited with interest at a rate determined by the board but not less than two percent (2%) per annum on the accumulated contributions of the member on June 30 of the preceding fiscal year and the amounts so credited shall be transferred from the retirement allowance account.

(4) Upon the retirement of a member, his accumulated contributions shall be transferred from the members' contribution account to the retirement allowance account.

Section 40. KRS 78.780 is amended to read as follows:

(1) The government and control of the system is vested in the board of trustees of the Kentucky Retirement Systems. The board shall carry out the provisions of KRS 78.510 to 78.852 in the same manner in which it administers the Kentucky Employees Retirement System. In all matters concerning the administration of KRS 78.510 to 78.852, the same rights, duties, and obligations shall apply to the board as apply under the provisions of KRS 61.510 to 61.705, except that members of the board, when acting for the County Employees Retirement System, shall be paid a per diem of ***eighty***[~~sixty~~] dollars ***($80)***[~~($60)~~], plus actual expenses.

(2) Expenses incurred by or on behalf of the system and the board in the administration of the system during a fiscal year shall be paid from the retirement allowance account. Any other statute to the contrary notwithstanding, authorization for all expenditures relating to the administrative operations of the system, including investment related expenditures, shall be contained in the biennial budget unit request, branch budget recommendation, and the financial plan adopted by the General Assembly pursuant to KRS Chapter 48. Nothing herein shall be construed as limiting appropriations which may

be made to the system from other sources.

SECTION 41. A NEW SECTION OF KRS 78.520 TO 78.852 IS CREATED TO READ AS FOLLOWS:

There is created and established:

(1) An excess benefit plan to be known as the County Employees Retirement System Excess Benefit Plan. The plan is created for the purpose of providing the retirement allowances payable from the retirement systems under KRS 78.520 to 78.852 that would otherwise be limited by 26 U.S.C. sec. 415.

(2) A state fund to be known as the County Employees Retirement System Excess Benefit Fund which shall consist of all the assets of the plan.

(3) The administration and assets of the plan shall be as set forth in Section 34 of this Act.

SECTION 42. A NEW SECTION OF KRS CHAPTER 61 IS CREATED TO READ AS FOLLOWS:

Any other statute to the contrary notwithstanding, the Executive Department of government shall accept from the unified prosecutorial system all accrued annual and sick leave balances and service credits of employees leaving the unified prosecutorial system and accepting appointments to the Executive Department. These leave balances shall be attested to by the former employer of the employee and shall not exceed those limits established by statute or administrative regulation for employees of the Executive Department. This provision shall apply to Executive Department employees who were contributing to the Kentucky Employees Retirement System or the State Police Retirement System on or after July 1, 2000.

Section 43. The following KRS sections are repealed:

61.554 Persons employed by Legislative Research Commission for six legislative bienniums may purchase credit in Kentucky Employees Retirement System.

61.596 Service credit bonus for early retirement -- Payments by agencies -- Forfeiture upon reemployment.

The Committee on Education reported **HB 178**, with Committee Substitute attached thereto, **HB 437**, with Committee Substitute attached thereto, **HB 623**, with Committee Substitute attached thereto, **HB 739**, with Committee Substitute attached thereto, and **HCR 88** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 178, AN ACT relating to early mathematics placement testing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 2 of this Act, unless the context otherwise requires:

(1) "Program" means the Kentucky Early Mathematics Testing Program; and

(2) "Participating colleges or universities" means all public universities in Kentucky and any private college or university in Kentucky that chooses to participate in the Kentucky Early Mathematics Testing Program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Early Mathematics Testing Program is created to lower the number of high school graduates in Kentucky who require remediation in mathematics upon enrollment in college by providing information to high school sophomores and juniors statewide regarding their level of mathematics knowledge in relation to standards required for college-level mathematics courses early enough for students to address deficiencies while still in high school.

(2) The program shall be located at a public university. The Council on Postsecondary Education, with the advice of the commissioner of education, shall develop a process to solicit, review, and approve a proposal for the location of the program. The council shall approve the location of the program no later than January 1, 2001.

(3) The program shall be available to all interested Kentucky public and private high school students in grades ten (10) and eleven (11). Student participation in the program shall be voluntary, and program test scores shall not be:

(a) Placed on a student's high school transcript; or

(b) Used by postsecondary institutions in the admissions process.

(4) The program shall encourage the active participation of all public and private high schools in Kentucky. If a student attends a school that is not participating, the program shall make alternative arrangements to allow the student to participate.

(5) The program shall:

(a) Develop an appropriate, valid, and reliable test to determine the level of mathematics knowledge of high school students in relation to standards on undergraduate placement tests at public universities in Kentucky;

(b) Develop a structure to provide each participating student, in the form of a personalized letter, the following information for up to three (3) participating colleges or universities specified by the student as a possible college

choice:

1. The student's test score;

2. A list of mathematics courses required for the student's intended undergraduate major;

3. A list of any remedial courses the student might be required to take based on the student's current level of mathematics knowledge as demonstrated on the test;

4. The estimated cost of the remedial courses the student might be required to take; and

5. The high school courses a student should consider taking in order to address any deficiencies;

(c) Encourage the chair of the mathematics department at each of the participating colleges or universities specified by the student as a possible college choice to send a personalized letter to the student that:

1. Encourages the student to take additional high school mathematics courses to address deficiencies in mathematics knowledge; or

2. Congratulates the student who does well on the test for their achievement and encourages continued study in mathematics;

(d) Coordinate the administration of the test by high schools;

(e) Score the completed tests received from participating high schools; and

(f) Develop and implement a strategy to raise awareness and encourage participation in the program, targeting high school students, parents, high school faculty, counselors, and administrators, college and university mathematics departments, and the general public.

(6) The Kentucky Department of Education shall provide assistance as necessary to the Kentucky Early Mathematics Testing Program to implement the provisions of Sections 1 to 2 of this Act.

(7) The program shall submit an annual report to the Kentucky Board of Education and the Council on Postsecondary Education regarding its activities and the effects of the program on levels of remediation required by participating students.

The Committee Substitute No. 1 to **HB 178** is as follows:

HB 178, AN ACT relating to early mathematics placement testing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act, unless the context otherwise requires:

(1) "Program" means the Kentucky Early Mathematics Testing Program; and

(2) "Participating colleges or universities" means all public postsecondary education institutions in Kentucky and any private college or university in Kentucky that chooses to participate in the Kentucky Early Mathematics Testing Program.

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Early Mathematics Testing Program is created to lower the number of high school graduates in Kentucky who require remediation in mathematics upon enrollment in postsecondary education institutions by providing information to primarily high school sophomores and juniors statewide regarding their level of mathematics knowledge in relation to standards required for community and technical colleges and university level mathematics courses early enough for students to address deficiencies while still in high school.

(2) The testing program shall be a computer website-based program that incorporates a variety of diagnostic mathematics tests to identify knowledge and skills needed for postsecondary education courses.

(3) The testing program shall be developed and conducted by a public university. The Council on Postsecondary Education, with the advice of the Department of Education, shall develop a process to solicit, review, and select a proposal for the development and implementation of the computer website-based testing program. The council shall approve the location of the program at a public university no later than September 1, 2000. The university shall be the fiscal agent for the testing program and shall receive the funds appropriated by the General Assembly.

(4) The program shall be available to all interested Kentucky public and private high school students in grades ten (10) and eleven (11). Student participation in the program shall be voluntary, and program test scores shall not be:

(a) Placed on a student's high school transcript; or

(b) Used by postsecondary education institutions in the admissions process.

(5) The computer website testing program shall be available to all Kentuckians for evaluation of an individual's mathematics knowledge and skills.

(6) The program shall encourage the active participation of all public and private high schools in Kentucky.

(7) The computer website testing program shall:

(a) Develop or adopt appropriate tests to determine the level of mathematics knowledge of high school students in relation to the standards of placement tests given at the community and technical colleges and undergraduate public universities. In the development or adoption of the tests, consideration shall be given to the program of studies and the minimum requirements for high school graduation established in KRS 156.160 and the alignment of these standards with postsecondary course standards;

(b) Develop a structure to permit each participating student the opportunity to take the computer-based test at school in the presence of school personnel or at the student's home in the presence of his or her parents or guardian;

(c) Score the completed tests and provide the test scores and diagnostic information on a student's knowledge and skills electronically to the student and the high school upon completion of the test in the form of electronic mail or printable files or screens.

(d) Provide the following information for up to three (3) participating postsecondary education institutions specified by the student as a possible college choice:

1. The student's test score;

2. A list of mathematics courses required for the student's intended major at a postsecondary education institution;

3. A list of any remedial courses the student might be required to take based on the student's current level of mathematics knowledge as demonstrated on the test;

4. The estimated cost of the remedial courses the student might be required to take; and

5. The high school courses and the specific mathematical concepts or functions a student should consider studying in order to address any deficiencies;

(e) Encourage the chair of the mathematics department or the academic dean at each of the participating postsecondary education institutions specified by the student as a possible college choice to send a personalized letter to the student that:

1. Encourages the student to take additional high school mathematics courses to address deficiencies in mathematics knowledge; or

2. Congratulates the student who does well on the test for his or her achievement and encourages continued study in mathematics; and

(f) Develop and implement a strategy to raise awareness and encourage participation in the program, targeting high school students, parents, high school faculty and administrators, mathematics departments or faculty at postsecondary education institutions, and the general public.

(8) The Kentucky Department of Education shall provide assistance as necessary to the Kentucky Early Mathematics Testing Program to implement the provisions of Sections 1 and 2 of this Act.

(9) The public university that conducts the testing program shall submit an annual report to the Kentucky Board of Education and the Council on Postsecondary Education regarding its activities, and the effects of the program on levels of remediation required by participating students.

HB 437, AN ACT relating to education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is created a commission to be composed of the commissioner of education, the president of the Council on Postsecondary Education, the executive director of the Education Professional Standards Board, the president of the Association of Kentucky Independent Colleges and Universities, three (3) members of the Kentucky Board of Education that are chosen by the board, and three (3) members of the Council on Postsecondary Education that are chosen by the council. The commission shall be known as the P-16 Commission.

(2) The purposes of the commission shall be to:

(a) Promote cooperation and communication among elementary, secondary, postsecondary, and adult education teachers and administrators;

(b) Study areas of curricula, management, and policy that support or restrict an effective, seamless system of education;

(c) Advocate the elimination of barriers impeding student transition from preschool through baccalaureate

programs;

(d) Inform and advise the legislature and the respective education councils, boards of education, boards of trustees, and boards of regents on relevant education matters; and

(e) Suggest programs to increase the number and diversity of students attending college that persuade parents and students to plan early for advanced education.

(3) The commission shall annually determine a working agenda; set meeting dates; establish working groups; sponsor appropriate research; suggest ways to improve coordination of education resources; and establish timetables for making recommendations as appropriate.

(4) The commissioner of education and the president of the council shall provide staff support for the work of the commission.

(5) The commission shall conduct a review of the curricula alignment among elementary, middle, secondary, and postsecondary education, including teacher preparation programs. They shall report to the Interim Joint Committee on Education their findings and recommendations by January 1, 2001.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall establish statewide standards for evaluation and support for improving the performance of all certified school personnel.

(2) The performance criteria on which teachers and administrators shall be evaluated shall include, but not be limited to:

(a) Performance of professional responsibilities related to his or her assignment , including attendance and punctuality and evaluating results;

(b) Demonstration of effective planning of curricula, classroom instruction, and classroom management, based on research-based instructional practices, or school management skills based on validated managerial practices;

(c) Demonstration of knowledge and understanding of subject matter content or administrative functions and effective leadership techniques;

(d) Promotion and incorporation of instructional strategies or management techniques that are fair and respect diversity and individual differences;

(e) Demonstration of effective interpersonal, communication, and collaboration skills among peers, students, parents, and others;

(f) Performance of duties consistent with the goals for Kentucky students and mission of the school, the local community, laws, and administrative regulations;

(g) Demonstration of the effective use of resources, including technology;

(h) Demonstration of professional growth;

(i) Adherence to the professional code of ethics; and

(j) Attainment of the teacher standards or the administrator standards as established by the Education Professional Standards Board that are not referenced in paragraphs (a) to (i) of this subsection.

(3) The certified employee evaluation programs shall contain the following provisions:

(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Department of Education.

(b) The local evaluation system shall include formative evaluation and summative evaluation.

1. "Formative evaluation" means a continuous cycle of collecting evaluation information and interacting and providing feedback with suggestions regarding the certified employee's professional growth and performance; and

2. "Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data, that:

a. Occur at the end of an evaluation cycle; and

b. Include a conference between the evaluator and the evaluated certified employee, and a written evaluation report.

(c) The Kentucky Board of Education shall adopt administrative regulations, incorporating written guidelines for a local school district to follow in developing, implementing, and revising the evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;

2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator.

Observations by peers or curriculum content specialists may be incorporated into the process for evaluating teachers;

3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;

4. Evaluators shall be trained, tested, and approved in accordance with administrative regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;

5. The evaluation system shall include a plan whereby the person evaluated is given assistance for professional growth as a teacher or administrator. The system shall also specify the processes to be used when corrective actions are necessary in relation to the performance of one's assignment; and

6. The training requirement for evaluators contained in subparagraph 4. of this paragraph shall not apply to district board of education members.

(4) A local district may request from the Kentucky Department of Education a waiver from the guidelines and administrative regulations promulgated by the Kentucky Board of Education as required in subsection (3)(c) of this section in order to implement an alternative evaluation plan for employees on continuing contracts. The department shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:

(a) Phase One: Evaluation for Professional Growth.

1. Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and

2. Evaluation does not include documentation that might adversely affect employment status.

(b) Phase Two: Transition.

1. Evaluation is for the purpose of intensive scrutiny of job performance;

2. Evaluation includes documentation that may lead to adverse employment decisions;

3. Assistance and support for improvement shall be provided by the school district; and

4. Placement of an individual in the transition phase is not subject to appeal, but the employee must be notified of the decision in writing.

(c) Phase Three: Evaluation for Deficiency.

1. Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;

2. A clear time frame for proposed actions is provided the employee; and

3. The summative evaluation is subject to appeal.

An alternative plan for the evaluation of certified personnel shall be proposed to the Kentucky Department of Education if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The department shall provide technical assistance to districts wishing to develop alternative evaluation plans.

(5) The Kentucky Board of Education shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.

(6) The local board of education shall establish an evaluation appeals panel for certified personnel that shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (4) of this section, the appeal shall only apply to the summative evaluation of Phase Three.

(7) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall have an evaluation system but may request a waiver from procedures or processes described in this section that the Kentucky Board of Education views as unmanageable in a large district as long as the plan meets the standards established by the Kentucky Board of Education for local school district evaluation systems. The local plan shall include an appeals process for employees who believe they were not fairly evaluated.

(8) Between July 15, 2000, and June 30, 2001, each school district shall review its local evaluation system to assure that the system is working effectively and to make changes to improve its system.

(9) Beginning with the 2001-2002 school year and subsequent years, the Kentucky Department of Education shall annually provide for on-site visits by trained personnel to a minimum of fifteen (15) school districts to review and insure appropriate implementation of the evaluation system by the local school district. The department shall provide technical assistance to local districts to eliminate deficiencies and to improve the effectiveness of their evaluation systems. The department may implement the requirement in this subsection in conjunction with other requirements, including but not limited to the scholastic audit process required by KRS 158.6455.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Each local board of education shall adopt a recruitment and employment plan to attract a well-trained, diverse classified and certified staff. For purposes of this section, "diverse staff" means persons of different cultural backgrounds, race, including Caucasian and minority as defined in Section 20 of this Act, and persons representing the two (2) sexes.

(2) The recruitment and employment plan shall be developed under the guidance of the superintendent with input from teachers, administrators, classified staff, and others as deemed appropriate.

(3) (a) The recruitment and employment plan shall include, but not be limited to:

1. Training for local board of education members in procedures and processes to be used when employing a superintendent of schools;

2. Training for principals and school-based decision making council members in interviewing and observation techniques, and other personnel related skills as deemed necessary in the local district;

3. Outreach strategies to fulfill requirements under subsection (2)(d) of Section 22 of this Act; and

4. Strategies to allow candidates to demonstrate leadership qualities and subject matter competencies.

(b) The recruitment and employment plan may include:

1. Early recruitment programs to encourage middle and high school students to pursue teaching as a career;

2. Incentive programs to assist existing paraprofessionals in the district to pursue teacher certification;

3. Marketing programs to enlist a variety of job applicants; and

4. Other strategies as deemed appropriate.

(4) The local board of education may utilize programs offered by professional organizations and by private and public providers for services to meet the requirements of this section, may develop its own plan, or may contract for services needed.

(5) The Kentucky Department of Education shall provide technical assistance to districts in the development and implementation of recruitment and training plans.

(6) The local district shall provide exit interviews with all employees who terminate employment.

(7) At a district's request, the department may approve leadership credit as described in Section 16 of this Act for a local training program as described in subsection (3) of this section.

(8) The local training program referenced in subsection (3) of this section may be approved by the local district for professional development of teachers under provisions of Sections 15 and 19 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 2001, the Education Professional Standards Board, with help from representatives of the Kentucky Department of Education, the Council on Postsecondary Education, Association of Independent Kentucky Colleges and Universities, public and private not-for-profit postsecondary institutions, and local educational agencies, shall develop a plan, including timelines for implementation, for a multidimensional recruitment and information program, to encourage persons to enter the teaching profession and to seek employment in Kentucky.

(2) The program shall not supplant or diminish current efforts required under Section 33 of this Act.

(3) The components of the program shall include:

(a) Early recruitment programs to inform middle and high school students about the potential of teaching as a career;

(b) Programs to encourage paraprofessionals in schools, as well as other nontraditional students, to pursue additional education to become teachers;

(c) Programs to enlist highly skilled career employees in specific content areas to pursue teaching as a second career;

(d) Options for recruiting persons with liberal arts and sciences majors and current students with nondeclared majors into nontraditional and accelerated teacher preparation programs;

(e) Marketing strategies for informing the public of the importance of high quality teaching to student

achievement, the value of teachers to society as a whole, the benefits and rewards of teaching, and the options for entering teacher preparation, including scholarship information; and

(f) Establishing pilot programs relating to the purposes listed in paragraphs (a) to (e) of this subsection throughout the state, based upon available funds appropriated for these purposes.

(4) For fiscal year 2001-2002, the board shall award grants to selected educational agencies through a competitive request for proposal process for pilot or demonstration projects to fulfill one (1) or more purposes of the recruitment into teaching program as listed in subsection (3) of this section.

(5) No later than March 15, 2001, the board shall present a status report of the recruitment and information program to the Interim Joint Committee on Education; and no later than October 15, 2001, the board shall present to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue a summary report with recommendations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established an Education Professional Standards Board in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law.

(2) The board shall be composed of nineteen (19) voting members including two (2) ex officio members, the commissioner of education or designee and the president of the Council on Postsecondary Education or designee, and seventeen (17) gubernatorial appointees. The gubernatorial appointees shall be as follows:

(a) Ten (10) members who are practicing educators in primary to twelfth grade consisting of at least seven (7) teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational programs and at least two (2) school administrators;

(b) One (1) member representative of local boards of education;

(c) Five (5) members representative of postsecondary institutions, including:

1. Two (2) representatives of colleges, departments, or schools of education at public universities;

2. Two (2) representatives from the colleges or schools of arts and sciences, one (1) of which may be from an independent not-for-profit college or university; and

3. One (1) chief academic officer of an independent not-for-profit college or university; and

(d) One (1) citizen member.

(3) Insofar as possible, the Governor shall assure broad geographical representation; shall assure equal representation of the two (2) sexes; and shall assure that appointments reflect the minority racial composition of the Commonwealth.

(a) Practicing educators, appointed to the board, shall have at least five (5) years of teaching or a combination of teaching and administrative experience.

1. Teachers shall have demonstrated leadership by having served as a department chair, mentor or guide to another teacher, member of a school-based decision making council, supervising teacher, or resource teacher, or by having served in a local, regional, or state role that provided a broad understanding of classroom management, teacher development, and school leadership.

2. Administrators shall have demonstrated a variety of leadership activities within the school and the district that led to instructional improvements within the school.

(b) The citizen member shall have a demonstrated interest in the public schools.

(4) Except for the initial appointments, all board members shall be appointed to serve four (4) year terms. Initial appointments to the board shall be made no later than sixty (60) days from the effective date of this Act as follows:

(a) Four (4) of the practicing educators shall be appointed to terms to expire April 30, 2004; three (3) practicing educators shall be appointed to terms to expire April 30, 2003; and three (3) practicing educators shall be appointed to terms to expire April 30, 2002;

(b) Two (2) of the appointees representative of postsecondary education institutions shall be appointed to terms to expire April 30, 2002, and three (3) appointees representative of postsecondary education institutions shall be appointed to terms to expire April 30, 2003;

(c) The appointee representative of local boards of education shall be appointed to a term to expire April 30, 2002; and

(d) The citizen appointee shall be appointed to a term to expire April 30, 2004.

The board shall meet no later than thirty (30) days from the date of the appointment of the members.

(5) Appointees to the board shall not serve more than two (2) consecutive terms.

(6) A member whose term has expired shall continue to serve until a successor is named.

(7) Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he or she was appointed shall no longer be eligible to serve in that position.

(8) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs.

(9) All members of the Education Professional Standards Board shall participate in a training and orientation program of no less than twelve (12) clock hours of training within the first thirty (30) days following their initial appointment.

(a) The executive director of the board or designee shall plan, organize, and arrange for the training.

(b) The training and orientation program shall include, but not be limited to, a review of the statutory responsibilities of the board and all laws relating to the board and programs under the jurisdiction of the board, statutory program requirements, legal procedures utilized by the board, the administrative regulations review process, administrative and operating procedures, appropriations to the board, and parliamentary procedure.

(c) Subsequent to initial training as described in this subsection, all members of the board shall annually participate in a training session of three (3) or more clock hours. The content of the annual training shall be based on the needs of the board members.

(d) Members shall not be eligible to vote on matters of policy until the initial training requirements as described in this subsection are fulfilled.

(10) Members of the board shall serve without compensation. Public employees shall be permitted to attend board meetings and perform other board business without loss of income or other benefits. All appointed members of the board shall be entitled to reimbursement of necessary expenses to attend meetings of the board and expenses for other official board business with approval of the board. Mileage shall be reimbursed at the approved rate for state employees. The costs of lodging and meals shall be reimbursed at actual costs but not to exceed a maximum figure as established by the board. The board shall establish the guidelines and operating procedures for expense reimbursement.

(11) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his or her employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(12) A chair and vice chair shall annually be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chair. The executive director or a designee shall keep records of proceedings. Regular meetings shall be held at least quarterly on call of the chair.

(13) A quorum shall be a majority of the membership of the board.

(14) A quorum shall be required to organize and conduct the business of the board.

(15) The Governor may remove a board member for cause, which shall include neglect of duty or malfeasance in office.

(16) To carry out the functions relating to its duties and responsibilities, the board is empowered to employ staff; to receive donations and grants of funds; to employ consultants as needed; to enter contracts; and to sponsor studies, conduct conferences, and publish information.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall set the qualifications and salary for the position of executive director of the board. When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if it deems it necessary.

(2) The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board.

(3) The executive director shall be awarded a contract to serve a term, not to exceed four (4) years, which is renewable at the pleasure of the board.

(4) The executive director shall be responsible for the day-to-day operations of the board; set up appropriate organizational structures and personnel policies for approval by the board; appoint all staff; prepare annual reports on the board's program of work; carry out policy and program directives of the board; prepare and submit to the board for its approval the proposed biennial budget of the board; and perform all other duties and responsibilities assigned by state law.

(5) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities under Section 25 of this Act.

(6) The executive and other staff of the board shall be reimbursed for expenses based on the per diem and travel reimbursements paid to all other state employees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) (a) By January 15, 2001, the Education Professional Standards Board in cooperation with the Kentucky Department of Education and teacher preparation institutions shall design procedures to determine whether

each teacher who on July 1, 2001, is teaching one (1) or more content areas in grades five (5) through eight (8) has a minor or major or the academic equivalent in the content area, or is otherwise qualified, is adequately prepared in the subject matter and the teaching methodologies appropriate to each content area for which he or she is assigned.

(b) The board shall promulgate administrative regulations that identify the measures that may be used to determine the level of preparation, which may include:

1. Classroom evaluations by peers;

2. Competency testing or performance assessments; and

3. Successful completion of professional development or college course work in the specific content areas.

The administrative regulations shall also define the timelines and corrective action steps that shall be taken at the district level and by the affected teacher to eliminate the deficiencies. A teacher shall be given two (2) school years from the time the administrative regulations become effective to complete corrective action.

(c) The Kentucky Department of Education, local school districts, and postsecondary education institutions shall provide, as much as possible, access to in-depth, professional development options, including summer institutes, virtual courses, subject matter academies, or other planned programs to those teachers identified as lacking sufficient preparation in one (1) or more content areas that they are teaching.

(d) If a tenured teacher has not corrected the deficiencies after two (2) years, the teacher shall be reassigned to a position for which he or she is sufficiently prepared.

(2) (a) By May 15, 2001, the Education Professional Standards Board shall define "out-of-field" teaching and inform all local school districts of the definition.

(b) By October 15, 2001, the Education Professional Standards Board shall identify every teacher assigned classes out-of-field in the 2001-2002 school year and shall inform the Kentucky Department of Education.

(c) The Kentucky Department of Education shall provide to each school district a summary of the teachers identified as teaching out-of-field and give the district opportunity to correct the situation during the year. Effective with the 2002-2003 school year and subsequent school years, the Kentucky Department of Education shall deduct from the funds allocated to the school district under KRS 157.360 a proportional amount of funds for each class period a teacher is assigned to an out-of-field class. The funds shall be calculated on the placement of the teacher on the biennial budget salary schedule for rank and experience. The fund deduction shall be from the next payment to the district after the out-of-field calculations have been determined.

SECTION 8. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall rank teachers as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding emergency certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding emergency certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(2) In determining ranks, the Education Professional Standards Board shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The board, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(3) For purposes of the state salary schedule only as referenced in Section 18 of this Act, rank shall be determined on September 15 of each year. A classroom teacher who receives a Rank II or Rank I classification after September 15, 2003, shall receive the increase in salary benefit associated with rank if the teacher earned the Rank II or Rank I by concentrating the study in the teaching content area for which he or she is teaching. A teacher who completes the Rank II or Rank I in education administration, including counseling, shall receive the Rank II or Rank I salary benefit, except that if he or she does not assume a related position within three (3) years the salary associated with the rank shall be rescinded.

(4) Nothing in this section shall allow the Education Professional Standards Board by regulation to reclassify downward any teachers in Ranks II or I.

SECTION 9. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) From the funds appropriated for the minority educator recruitment and retention program specified in Section 33 of this Act, scholarships shall be provided to minority students to recruit them into the teaching profession.

(2) The scholarship program shall be offered at the public postsecondary universities and shall be available to out-of-state students who meet the other qualifications for entry into teacher education at the university.

(3) A scholarship recipient shall sign a promissory note requiring the recipient to teach in Kentucky one (1) semester for each semester the recipient receives scholarship funds. If a recipient does not teach in Kentucky, the scholarship converts to a loan with interest. The Kentucky Higher Education Assistance Authority shall enforce the repayment of the loan within a specified time frame.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No postsecondary education institution shall receive funds from the Council on Postsecondary Education from any trust fund for the purposes of teacher education or model programs of teaching and learning unless the Education Professional standards Board has certified to the council that the institution has met the following conditions:

(1) The college or university has developed viable partnerships with local school districts and schools;

(2) There is evidence of ongoing dialogue and collaboration among liberal arts and sciences faculty and administrators with faculty and administrators in the department, school, or college of education;

(3) The college or university has demonstrated a commitment to participate in teacher academies;

(4) The college or university has an active recruitment plan for attracting and retaining minority faculty as well as students, and particularly in the department, school, or college of education;

(5) The college or university has initiated the development of incentives or rewards for faculty across the institution to participate in service activities to local schools;

(6) The department, school, or college of education has developed at least one (1) accelerated alternative plan for teacher education or nontraditional program of teacher preparation, or commits to developing an accelerated alternative or nontraditional program;

(7) The department, school, or college of education provides consistent and quality classroom and field experiences, including early practicums and student teaching experience for all students;

(8) There are no major accreditation deficiencies; and

(9) The institution has demonstrated at least one (1) or more innovations in teacher education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) In recognition of valuable service to the preparation of teachers and the need for all teachers to have continual professional growth, a supervising teacher as referenced in Section 27 of this Act or a resource teacher as referenced in Section 26 of this Act may, with prior approval of the course-offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution and pay no tuition. The postsecondary institution shall waive the tuition up to a maximum of six (6) credit hours.

(2) The teachers covered in this section may exercise the tuition-free course option, only if there is available space within a given course offering. A postsecondary institution shall not be required to establish a course to meet teacher requests.

(3) The tuition-free courses may be used to partially satisfy requirements for an advanced degree.

(4) Each public postsecondary education institution shall establish the procedures for implementing the provisions of this section, effective August 1, 2000.

Section 12. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.

3. Department of State.
   (a) Secretary of State.
   (b) Board of Elections.
   (c) Registry of Election Finance.
4. Department of Law.
   (a) Attorney General.
5. Department of the Treasury.
   (a) Treasurer.
6. Department of Agriculture.
   (a) Commissioner of Agriculture.
   (b) Kentucky Council on Agriculture.
7.[~~Superintendent of Public Instruction.~~
~~8.~~] Auditor of Public Accounts.
8.[~~9.~~] Railroad Commission.

II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
   (a) Department of State Police.
   (b) Department of Criminal Justice Training.
   (c) Department of Corrections.
   (d) Department of Juvenile Justice.
   (e) Office of the Secretary.
   (f) Offices of the Deputy Secretaries.
   (g) Office of General Counsel.
   (h) Division of Kentucky State Medical Examiners Office.
   (i) Parole Board.
   (j) Kentucky State Corrections Commission.
   (k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
   (a) Department of Education.
      (1) Kentucky Board of Education.
[~~(2) Education Professional Standards Board.~~]
   (b) Department for Libraries and Archives.
   (c) Kentucky Arts Council.
   (d) Kentucky Educational Television.
   (e) Kentucky Historical Society.
   (f) Kentucky Teachers' Retirement System Board of Trustees.
   (g) Kentucky Center for the Arts.
   (h) Kentucky Craft Marketing Program.
   (i) Kentucky Commission on the Deaf and Hard of Hearing.
   (j) Governor's Scholars Program.
   (k) Governor's School for the Arts.
   (l) Operations and Development Office.
   (m) Kentucky Heritage Council.
   (n) Kentucky African-American Heritage Commission.
   (o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.

(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of General Counsel.
(g) Office of Public Affairs.
(h) Office of Personnel Management.
(i) Office of Minority Affairs.
(j) Office of Environmental Affairs.
(k) Office of Policy and Budget.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.

    (j) Office of Aging Services.
8. Cabinet for Health Services.
    (a) Department for Public Health.
    (b) Department for Medicaid Services.
    (c) Department for Mental Health and Mental Retardation Services.
    (d) Kentucky Commission on Children with Special Health Care Needs.
    (e) Office of Certificate of Need.
    (f) Office of the Secretary.
    (g) Office of the General Counsel.
    (h) Office of Program Support.
    (i) Office of the Inspector General.
9. Finance and Administration Cabinet:
    (a) Office of Legal and Legislative Services.
    (b) Office of Management and Budget.
    (c) Office of Financial Management and Economic Analysis.
    (d) Office of the Controller.
    (e) Department for Administration.
    (f) Department of Facilities Management.
    (g) Department of Information Systems.
    (h) State Property and Buildings Commission.
    (i) Kentucky Pollution Abatement Authority.
    (j) Kentucky Savings Bond Authority.
    (k) Deferred Compensation Systems.
    (l) Office of Equal Employment Opportunity Contract Compliance.
    (m) Office of Capital Plaza Operations.
    (n) County Officials Compensation Board.
    (o) Kentucky Employees Retirement Systems.
    (p) Commonwealth Credit Union.
    (q) State Investment Commission.
    (r) Kentucky Housing Corporation.
    (s) Governmental Services Center.
    (t) Kentucky Local Correctional Facilities Construction Authority.
    (u) Kentucky Turnpike Authority.
    (v) Historic Properties Advisory Commission.
    (w) Kentucky Kare Health Insurance Authority.
10. Labor Cabinet:
    (a) Department of Workplace Standards.
    (b) Department of Workers' Claims.
    (c) Kentucky Labor-Management Advisory Council.
    (d) Occupational Safety and Health Standards Board.
    (e) Prevailing Wage Review Board.
    (f) Workers' Compensation Board.
    (g) Kentucky Employees Insurance Association.
    (h) Apprenticeship and Training Council.
    (i) State Labor Relations Board.
    (j) Kentucky Occupational Safety and Health Review Commission.
    (k) Office of Administrative Services.
    (l) Office of Labor-Management Relations and Mediation.

(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
    (a) Department of Property Valuation.
    (b) Department of Tax Administration.
    (c) Office of Financial and Administrative Services.
    (d) Department of Law.
    (e) Department of Information Technology.
    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy and Budget.
    (q) Office of Personnel Services.
    (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
    (a) Office of Administrative and Legal Services.
    (b) Department for Personnel Administration.
    (c) Department for Employee Relations.
    (d) Kentucky Public Employees Deferred Compensation Authority.
    (e) Kentucky Kare.
    (f) Division of Performance Management.
    (g) Division of Employee Records.
    (h) Division of Staffing Services.
    (i) Division of Classification and Compensation.
    (j) Division of Employee Benefits.

(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.
2. Council on Postsecondary Education.
   (a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.
7. Kentucky Commission on Military Affairs.
8. Office of the Chief Information Officer.
9. Education Professional Standards Board.

Section 13. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) ***Education Professional Standards Board;***
(5) Kentucky Commission on Human Rights;
(6)[~~(5)~~]Kentucky Commission on Women;
(7)[~~(6)~~]Kentucky Commission on Military Affairs;
(8)[~~(7)~~] Coal Marketing and Export Council;
(9)[~~(8)~~]Governor's Office of Child Abuse and Domestic Violence Services;
(10)[~~(9)~~] Office of the Chief Information Officer; and
(11)[~~(10)~~] Office of Coal Marketing and Export.

Section 14. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;~~[and]~~

(aa) Chief information officer of the Commonwealth*; and*

(bb) Employees of the Education Professional Standards Board.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 15. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and

personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include ***assisting with needs assessments, analyzing school data,*** planning and evaluation assistance***, organizing district-wide programs requested by school councils or groups of teachers,*** or ***other*** coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

(a) Curriculum content and methods of instruction for each content area;

(b) School-based decision making;

(c) Performance-based student assessment;

(d) Nongraded primary programs;

(e) Research-based instructional practices;

(f) Instructional uses of technology;

(g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(h) Instruction of phonics; and

(i) Educational leadership.

(4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts ***and school councils*** with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in ***subject matter academies,*** teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, ***school councils and districts shall give*** priority[~~shall be given~~] to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. ***The district may use*** up to one (1) day[~~may be used~~] to provide ***district-wide training and*** training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development ***shall***[~~may~~] be used to support professional development initiatives that are consistent with local ***school improvement and professional development*** plans ***and teachers' individual growth plans. The funds may be used***[~~,~~] throughout the year for all staff, including classified and certified staff and parents on school councils or committees. ***At least fifty percent (50%) of the funds allocated to each school council under Section 20 of this Act shall be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.***

(6) The Department of Education shall ***establish an electronic consumer bulletin board that posts information regarding***~~[contract with an outside agency to complete an analysis of the current status of the statewide]~~ professional development ***providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or*** program.~~[The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:~~

~~(a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and~~

~~(b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.~~

~~A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.]~~

(7) ~~[During the 1998-1999 and 1999-2000 school years,]~~The Department of Education shall ***facilitate ongoing***~~[conduct an intensive statewide]~~ professional development ***programs***~~[program]~~ to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the dropout rate of all students; and

(c) Prepare all students for a successful transition to adult life.

(8) By July 1, 2000, the department shall establish teacher academies in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

Section 16. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, "instructional leader" shall be defined as an employee of the public schools of the Commonwealth ***employed***~~[holding a valid certificate]~~ as a principal, assistant principal, supervisor of instruction, guidance counselor,~~[or]~~ director of special education***, or other administrative positions deemed by the Education Professional Standards Board to require an administrative certificate, except the superintendent, who shall meet the continuing education requirements promulgated in administrative regulations by the Kentucky Board of Education as described in subsection (4) of Section 17 of this Act***.

(3) In order to carry out the purpose of this section, the Kentucky Board of Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the Kentucky Board of Education to include no less than forty-two (42) participant hours of instruction;

(c) The Kentucky Board of Education shall prescribe specific criteria for the training program***. The Kentucky Department of Education***~~[and]~~ may contract for ***specific***~~[the]~~ training with qualified agencies or institutions ***or approve programs offered by training providers, including local district training programs, except that the department shall insure the requirements of paragraph (d) of this subsection are met by each employed instructional leader***;~~[and]~~

(d) ***The department shall insure that between July 15, 2000, and June 30, 2002, every instructional leader defined in this section acquires a minimum of six (6) participant hours of training in diversity and equity issues that influence school climate, student learning needs, and instructional practices. In subsequent years, new administrators shall complete the six (6) hours during the first reporting cycle for leadership credit following their employment as administrators. The department shall insure that programs are available to administrators in all regions of the state on an ongoing basis to enable them to meet the training requirement; and***

(e) Completion of the required ***forty-two (42)*** participant hours***, including the six (6) hours specified in subsection (d) of this section,*** shall be reported to the ***department***[~~State Department of Education~~] and to the ***Education Professional Standards Board by the*** local school district. If an instructional leader fails to complete the required hours of training, ***the instructional leader***[~~he~~] shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, ***the instructional leader's***[~~his~~] certificate shall be revoked ***by the Education Professional Standards Board***.

[~~(5) As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the Kentucky Board of Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.~~

~~(6) The certified employee evaluation programs shall contain the following provisions:~~

~~(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Board of Education;~~

~~(b) The local school district shall review the evaluation plan to insure compliance with this section. Upon adoption, revisions to the evaluation plan shall be submitted for approval by the Kentucky Board of Education; and~~

~~(c) The Kentucky Board of Education shall notify local school districts of their responsibilities under this subsection, develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:~~

~~1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;~~

~~2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;~~

~~3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;~~

~~4. Evaluation shall include a conference between the evaluator and the person evaluated;~~

~~5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;~~

~~6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and~~

~~7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.~~

~~(7) A local district may request from the Kentucky Board of Education a waiver from the guidelines and administrative regulations promulgated by the state board as required in subsection (6) of this section in order to implement an alternative certified evaluation plan for employees on continuing contracts. The board shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:~~

~~(a) Phase One (1): Evaluation for Professional Growth.~~

~~1. Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and~~

~~2. Evaluation does not include documentation that might adversely affect employment status.~~

~~(b) Phase Two (2): Transition.~~

~~1. Evaluation is for the purpose of intensive scrutiny of job performance;~~

~~2. Evaluation includes documentation that may lead to adverse employment decisions;~~

~~3. Assistance and support for improvement shall be provided by the school district; and~~

~~4. Placement of an individual in the transition phase is not subject to appeal, but the employee must be notified of the decision in writing.~~

~~(c) Phase Three (3): Evaluation for Deficiency.~~

~~1. Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;~~

~~2. A clear time frame for proposed actions is provided the employee; and~~

~~3. The summative evaluation is subject to appeal.~~

~~An alternative plan for the evaluation of certified personnel shall be proposed to the state board if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The Kentucky Department of Education shall provide technical assistance to districts wishing to develop alternative evaluation plans.~~

~~(8) The State Department of Education shall visit school districts within the Commonwealth as needed to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.~~

~~(9) The State Department of Education shall select and train evaluators from outside each local school district to conduct evaluations as needed of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.~~

~~(10) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for subsection (11) of this section provided they meet the standards established by the Kentucky Board of Education for local school district evaluation systems.~~

~~(11) The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (7) of this section, the appeal shall only apply to the summative evaluation of Phase Three (3).~~]

(5)[~~(12)~~] This section shall be known as the "Effective Instructional Leadership Act."

Section 17. KRS 156.111 is amended to read as follows:

(1) [~~Prior to July 1, 1992,~~]The Department of Education shall establish a Superintendents Training Program and Assessment ***Process***[~~Center~~]. The assessment ***process***[~~center~~] shall be modeled after the American Association of School Administrators assessment process or a similar validated process. The department may provide assessment centers regionally ***and may contract for services with individuals and agencies, including universities, to carry out the assessment process. The department shall approve trainers*** and shall provide for assessor training. The ***process***[~~center~~] shall include, but not be limited to, training ***as well as participation in a superintendent's assessment center.***[~~for superintendents in~~] The following subjects ***shall be included, but the process shall not be limited to***:

(a) Core concepts of management;

(b) School-based decision making;

(c) Kentucky school law;

(d) Kentucky school finance;[~~ and~~]

(e) School curriculum and assessment***; and***

(f) Personnel management, including recruitment, employment, and support of a diverse faculty and staff.

(2) At the conclusion of the training, each participant shall complete a written comprehensive examination based on the content of the training. ***Each participant shall also meet the performance requirements of the assessment center.***

(3) In addition to any applicable certification and experience requirements, to be qualified and eligible for continued employment as a school superintendent[~~, effective July 1, 1994, the school superintendent shall have successfully completed the assessment center process~~]. A person hired for the first time as superintendent in Kentucky after June 30, 1994, shall successfully complete the ***training and*** assessment center process within one (1) year of assuming his duties as superintendent.

(4) The Kentucky Board of Education shall adopt administrative regulations to govern the training content, number of hours, written examination, and criteria for successful completion of the training and assessment center process. The board shall also establish the continuing professional development requirements for school superintendents[~~, to be effective July 1, 1994~~].

Section 18. KRS 157.390 is amended to read as follows:

(1)[~~ (a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:~~

~~Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the~~

~~Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.~~

~~Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.~~

~~Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.~~

~~Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.~~

~~Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.~~

~~(b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.~~

~~(c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.~~

[~~(2)~~] ***For purposes of the state teacher salary schedule,*** the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each rank ***as established by the Education Professional Standards Board and*** by their years of experience[~~ for purposes of the state teacher salary schedule~~] as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and
5. Twenty (20) or more years.

(2)[~~(3)~~](a) The ***classification by*** rank and experience of the teacher shall be determined on September 15 ***of each year***.

(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section ***and in compliance with subsection (3) of Section 8 of this Act***.

(3)[~~(4)~~]The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(4)[~~(5)~~]The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(5)[~~(6)~~]The total amount of money distributable to each district from the public school fund shall be the sum of the allotments in subsections ***(2),*** (3), ***and*** (4)[~~, and (5)~~] of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).

(6)[~~(7)~~]***Effective July 1, 2001, local school districts may provide additional salary compensation above the base single salary schedule for teachers who are recruited to serve in critical shortage areas including geographic, subject matter, or diversity; teachers who agree to transfer from a reward school to a school that has not met its threshold level for school improvement under KRS 158.6455 or from a school that has less than twenty percent (20%) of students who qualified for free or reduced-price lunch to a school that is designated as a high poverty school with more than sixty percent (60%) of students who qualify for free or reduced-price lunch; and persons who serve as classroom teaching partners or mentors in a state-approved program.*** The Kentucky Board of Education shall ***promulgate administrative regulations to define the conditions under which the additional salary compensation may be provided. The administrative regulations shall include the maximum compensation that may be granted to an individual; the approval process; the time limitations; and reporting requirements. A teacher shall not be approved for additional compensation for teaching a specific subject matter area unless the shortage area has been approved by the Education Professional Standards Board and certified to the Kentucky Department of Education***[~~create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally-recognized factors which the board considers~~

~~relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly]~~.

(7) During the 2000-2002, biennium, the Kentucky Board of Education may approve up to five (5) local school districts to conduct pilot comprehensive professional compensation plans. The pilot plans shall recognize a teacher's professional competency, skills, and knowledge; contributions to improve schools and student achievement and learning; and professional involvement in local, state, and national organizations.

Section 19. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the chief state school officer, which regulations must be in conformity with the following criteria:

(a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;

(b) A pupil's required attendance in school shall be for at least the minimum instructional term; and

(c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of ***Section 15 of this Act***~~[KRS 156.095]~~. ***At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.***

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed.

1. A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.

2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph.

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;

2. Local disaster which would endanger the health or safety of children; and

3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the chief state school officer.

(4) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting

professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the chief state school officer may designate alternate dates. The chief state school officer shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

Section 20. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;

2. Instructional programs operated in institutions or schools outside of the district; or

3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or

2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

   a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

   b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. ***When a vacancy in the school principalship occurs, the school council shall receive training in recruitment, interviewing, and observation techniques prior to carrying out the process of selecting a principal.*** Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to ***Section 15 of this Act***[~~KRS 156.095~~];

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so.[~~ By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice.~~] All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, and school council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within ***one hundred twenty (120)***[~~thirty (30)~~] days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the chief state school officer and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent (65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development ***in compliance with requirements specified in Sections 15 and 19 of***

this Act.~~[with the district's coordinator and other]~~ School councils ***of***~~[.]~~ small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 21. KRS 160.180 is amended to read as follows:

(1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(2) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the twelfth grade or has been issued a GED certificate or has received a high school diploma through participation in the external diploma program and he is elected after July 13, 1990; and

(d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or

(e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or

(f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or

(g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or

(h) Who has been removed from membership on a board of education for cause; or

(i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.

(3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

(4) A board member shall be eligible for reelection unless he becomes disqualified.

(5) The annual in-service training requirements for all school board members shall be as follows:

(a) Twelve (12) hours for school board members with zero to three (3) years of experience;

(b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and

(c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement***, except that all local board members shall have at least three (3) hours of training in personnel issues related to the superintendency, including but not limited to fair recruitment practices, effective interviewing techniques, fair employment procedures, and effective evaluation of a superintendent of schools***.

Section 22. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education***, of the Education Professional Standards Board,*** and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the chief state school officer thirty (30) days before the position shall be filled. The chief state school officer shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall***:***

1. Post position openings in ***at least three (3) easily accessible locations within the community***[~~the local board office~~] for public viewing***, one (1) of which may be in the local board office; and***

2. Carry out recruitment strategies as determined locally to assure a diverse certified staff.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the chief state school officer. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the chief state school officer. The chief state school officer shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct ***internal and out-of-district searches***[~~a search~~] to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.

(4) (a) Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

(b) The superintendent shall require that each new certified hire, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search.

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) ~~[If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term,]~~ A superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

Section 23. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120 ***and Sections 5 and 16 of this Act***:

(1) ***"Administrator" means a person for whom a certificate is required as a basis of employment in the public schools and who devotes the majority of his or her work time as a superintendent, deputy superintendent, assistant superintendent, associate superintendent, principal, assistant principal, supervisor of instruction, pupil personnel director, director of special education, vocational education administrator, counselor, or any other administrative position in the public schools whose job description requires an administrative credential as prescribed by the administrative regulations of the Education Professional Standards Board.***

(2) "Certificate" means a document issued by the Education Professional Standards Board that authorizes a person to be a teacher or an administrator.

(3) "Certified" means possession of a credential that is required by the laws of the state as a condition of employment.

(4) "Certified school employee" means an employee of a local school district who is required to have certification for his or her position as provided by Section 24 of this Act.

(5) "Continuing education" means study or other activities to provide professional improvement and personal growth for certified teachers throughout their career. It may include, but shall not be limited to, university courses, an advanced degree, or a combination of university courses, field-based experience, individual research, and approved professional development activities, pursuant to KRS *156.095*~~[161.095]~~.

(6)~~[(2)]~~"~~[Standard]~~College or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the *Education Professional Standards Board*~~[Kentucky Department of Education]~~.

(7)~~[(3)]~~"~~[Standard]~~College or university work of graduate grade" means academic preparation which extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a~~[standard]~~ college or university accredited for the graduate level.

(8)~~[(4)]~~"Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he *or she* is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(9)~~[(5)]~~"Teacher's aide" means an adult school employee who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his *or her* training and competency, certain instructional and noninstructional functions in the school program including, but not limited to, clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, and preparing and organizing instructional materials and equipment.

Section 24. KRS 161.020 is amended to read as follows:

(1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in *the*~~[such]~~ position, unless he *or she* holds a certificate of legal qualifications for *the*~~[such]~~ position*, issued by the Kentucky Education Professional Standards Board*.

(2) No person shall enter upon the duties of a position requiring certification qualifications until his *or her* certificate has been filed or credentials registered with the local district *employer*~~[employing him]~~.

(3) The validity and terms for the renewal of any certificate shall be determined by the laws and regulations in effect at the time the certificate was issued.

Section 25. KRS 161.028 is amended to read as follows:

~~[(1)]~~The Education Professional Standards Board has the authority and responsibility to:

(1)~~[(a)]~~Establish standards and requirements for obtaining and maintaining a teaching certificate;

(2)~~[(b)]~~Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel*. Program standards shall reflect national standards and shall address, at a minimum, the following:*

(a) The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;

(b) Research-based classroom practices;

(c) Emphasis on subject matter competency of teacher education students;

(d) Methodologies to meet diverse educational needs of all students;

(e) The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;

(f) The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;

(g) The skill and diversity of faculty;

(h) The effectiveness of partnerships with local school districts; and

(i) The performance of graduates on various measures as determined by the board.

(3)~~[(c)]~~*Conduct an annual review of diversity in teacher preparation programs, require a plan of action to increase diversity, and take corrective actions as deemed appropriate for chronic noncompliance to the plan;*

(4) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;

(5) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;

(6)[~~(c)~~]Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;

(7)[~~(d)~~]Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(8)[~~(e)~~]Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(9)[~~(f)~~] ***Determine the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system;***

(10) [~~Maintain data and~~]Submit reports to the Governor and the Legislative Research Commission ***and inform the public on the status of teaching in Kentucky***[~~ concerning employment trends, including the number of minority certified employees, and the quality of professional preparation programs~~];

(11)[~~(g)~~] ***Devise a credentialing***[~~Reduce and streamline the credential~~] system ***that provides alternative routes to gaining certification and***[~~to allow~~] greater flexibility in staffing local schools while maintaining standards for teacher competence;

(12)[~~(h)~~] Develop a professional code of ethics;

(13)[~~(i)~~] ***Recruit,*** select***, employ,*** and evaluate the executive ***director***[~~secretary~~] to the board***; approve employment policies and procedures for the employment of other staff as needed to carry out the teacher education and certification processes assigned to the Education Professional Standards Board***;

(14)[~~(j)~~] Approve the biennial budget request[~~ and advise the commissioner of education on budgetary matters~~];

(15)[~~(k)~~] Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates;[~~ and~~]

(16)[~~(l)~~] Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver***;***

(17) Solicit the development of one (1) or more innovative, nontraditional teacher preparation programs through colleges or universities, private contractors, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program; and

(18) Issue orders as necessary in any administrative action before the board.

[~~(2) (a)The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:~~

~~1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;~~

~~2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;~~

~~3. One (1) member representative of local boards of education; and~~

~~4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.~~

~~(b) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was appointed shall no longer be eligible to serve in that position.~~

~~(c) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.~~

~~(d) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by~~

~~the board for the actual amount of any costs incurred.~~

~~(e) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.~~

~~(f) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.~~

~~(3) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.~~]

Section 26. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The ***Education Professional Standards Board***[~~Department of Education~~] shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the ***Education Professional Standards Board with recommendations from the local school district***~~[Department of Education]~~ from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the ***Education Professional Standards Board***~~[Department of Education]~~ for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the ***Education Professional Standards Board***~~[Department of Education]~~. Priority shall be given to resource teachers in the following order:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. ***Retired teachers with the same certification;***

4. Teachers in the same school;

5.~~[4.]~~ Teachers in the same district; and

6.~~[5.]~~ Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the ***Education Professional Standards Board***~~[chief state school officer]~~ shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his ***or her*** appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board.~~[The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.]~~

(10) The Education Professional Standards Board shall approve the curricula of any~~[standard]~~ college or university, or of any

department thereof, for the training of teachers, ***and of any nontraditional or alternative teacher preparation program offered in a public or private postsecondary education institution,*** and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 27. KRS 161.042 is amended to read as follows:

(1) The ***Education Professional Standards Board***~~[Kentucky Board of Education]~~ shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the ***Education Professional Standards Board***~~[Kentucky Board of Education]~~, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) ***The Education Professional Standards Board shall promulgate administrative regulations defining the professional requirements and general duties of*** a supervising teacher ***and requirements for a local school district and school to be used for this purpose***~~[shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If obtainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years]~~.

(4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a ***certified***~~[certificated]~~ teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he ***or she*** is assigned.

(5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Section 28. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections (3) through (5) of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers ***and administrators*** of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) ***Certification alternatives for teachers:***

(a) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the ***middle school or*** secondary ***school*** level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

1.~~[(a)]~~ The application contains documentation of all education and work experience;

2.~~[(b)]~~ The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

3.[~~(c)~~] The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four ***(4.0)***[~~(4)~~] point scale ***or a master's degree or above with a cumulative grade point average of a three and twenty-five hundredths (3.25) on a four (4.0) point scale on all graduate level course work*** from a nationally or regionally accredited postsecondary institution; and

4.[~~(d)~~] The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of ***Section 26 of this Act***[~~KRS 161.030~~]. After successful completion of the internship, the candidate shall receive a regular ***professional***[~~provisional~~] certificate.

[~~An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional~~]***The professional*** certificate ***shall be***[~~, and~~] subject to certificate renewal requirements the same as any other teacher with a regular ***professional***[~~provisional~~] certificate.

(b)[~~(3)~~]Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

1.[~~(a)~~] Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four ***(4.0)***[~~(4)~~] point scale or ***a master's degree or above with a cumulative grade point average of three and twenty-five hundredths (3.25) on a four (4.0) point scale on all graduate level course work.***[~~, upon approval by~~] the Education Professional Standards Board ***may approve a candidate who has***[~~,~~] at least a grade point average of two ***(2.0)***[~~(2)~~] on a four ***(4.0)***[~~(4)~~] point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

2.[~~(b)~~] Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

3.[~~(c)~~] Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

4.[~~(d)~~] Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to ***Section 26 of this Act***[~~KRS 161.030~~].

5.[~~(e)~~] The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(c)[~~(4)~~]Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

1.[~~(a)~~] A master's degree or doctoral degree in the academic subject area for which certification is sought;

2.[~~(b)~~] A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and

3.[~~(c)~~] Successful completion of the teacher internship requirement imposed under ***Section 26 of this Act***[~~KRS 161.030~~].

(d)[~~(5)~~]Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.

(3) Certification alternatives for administrators:

(a) Option 1: Certification through a local district training program. A local school district or group of districts, the Department of Education, and an accredited postsecondary institution may seek approval from the Education Professional Standards Board for an alternative principal or superintendent training program. The state-approved local district training program shall be an alternative to the traditional postsecondary preparation program. A primary component of the training program shall be employment as an assistant principal or assistant superintendent under a temporary certificate issued by the Education Professional Standards Board.

1. The board shall promulgate an administrative regulation establishing the standards for approval of a local district training program, including but not limited to:

a. Academic criteria comparable to the requirements for admission to an approved postsecondary education administration preparation program;

b. Recommendations supporting leadership potential;

c. Successful completion of assessments required under KRS 161.027;

d. Criteria for placement with a supervising principal or superintendent;

e. Requirements of regular guidance and evaluation by a support team; and

f. Additional professional development to address a candidate's specific needs.

2. A principal candidate who successfully completes the local district training program shall complete the internship program under KRS 161.027, and a superintendent candidate shall complete the requirements in Section 17 of this Act.

(b) Option 2: Certification of a person with exceptional work experience. An individual with exceptional work experience may submit an application for certification as a superintendent. This application shall contain:

1. Documentation of at least five (5) years of exceptional full-time leadership experience as demonstrated by superior performance of his or her duties and evidence of superior knowledge and skills when compared against generally accepted standards for superintendent certification;

2. Official transcripts detailing at least an earned master's or professional degree beyond the bachelor's with a cumulative grade point average of three and twenty-five hundredths (3.25) on a four (4.0) scale for all graduate level course work;

3. Evidence that the candidate has successfully completed the principal assessments required in KRS 161.027; and

4. A portfolio demonstrating how the candidate's leadership experience is commensurate with the job demands of the superintendency.

Upon review of the application the board shall issue a statement of eligibility valid for five (5) years to a successful candidate. Upon employment in a local district as a superintendent, deputy superintendent, assistant superintendent, or associate superintendent, a one (1) year provisional certificate shall be issued. Upon successfully completion of the superintendent's training and testing program and assessment program required under Section 17 of this Act, a professional superintendent certificate will be awarded.

(4)~~[(6)]~~A teacher certified under ***subsection***~~[subsections]~~ (2)~~[to (5)]~~ of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

(5)~~[(7)]~~Subsections (1) to (3) of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under ***Subsections (5), (6), (7), and (8) of Section 26 of this Act***~~[KRS 161.030]~~.

Section 29. KRS 161.049 is amended to read as follows:

(1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.

(2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the ***board or contracted with another agency***~~[Department of Education]~~. The training shall include content and procedures for the evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.

(3) A local school district seeking to hire a teacher pursuant to ***subsection (2)(b) of Section 28 of this Act***~~[KRS 161.048(3)]~~ shall submit a plan for a local district alternative training program to the ***Education Professional Standards Board***~~[Department of Education]~~ and have it approved in accordance with administrative regulations established by the~~[Education Professional Standards]~~ Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a state-approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.

(4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge

and skills and include, but not be limited to, the following components:

(a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.

(b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.

(c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.

(5) At least two hundred fifty (250) hours of formal instruction shall be provided in all three (3) phases of the program combined.

(6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to ***Section 26 of this Act***[~~KRS 161.030~~]. The support team shall make one (1) of the following recommendations:

(a) Approved: recommends issuance of certificate to complete the internship;

(b) Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or

(c) Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

Section 30. KRS 161.100 is amended to read as follows:

When a district board of education satisfies the Education Professional Standards Board that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the Education Professional Standards Board may issue emergency certificates to persons who meet the qualifications determined by the Education Professional Standards Board for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The Education Professional Standards Board may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the ***offices of the Education Professional Standards Board***[~~state Department of Education~~] under the direction of the ***executive director***[~~board's staff chief state school officer~~], in accordance with administrative regulations approved by the Education Professional Standards Board.

Section 31. KRS 161.126 is amended to read as follows:

(1) The "designated state official" for this state shall be the ***executive director of the Education Professional Standards Board***[~~chief state school officer~~]. The ***executive director***[~~chief state school officer~~] shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text by the Education Professional Standards Board.

(2) True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the ***Education Professional Standards Board***[~~chief state school officer~~] and in the office of the Secretary of State. The ***executive director of the board***[~~chief state school officer~~] shall publish all contracts in convenient form.

Section 32. KRS 161.157 is amended to read as follows:

An employee of the Department of Education ***or the Education Professional Standards Board*** who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3) and shall be allowed credit for each full year of employment with the Department of Education for the determination of pay under the school districts' single salary schedule.

Section 33. KRS 161.165 is amended to read as follows:

(1) The ***Kentucky Department of Education, in cooperation with the*** Education Professional Standards Board***,***[~~, in cooperation with~~] the Kentucky Board of Education, ***local school districts, universities and colleges,*** and the Council on Postsecondary Education***,*** shall develop a coordinated, strategic plan for increasing the number of minority teachers ***and administrators*** in the Commonwealth. The plan shall include ***the collection and analysis of school census data and***[~~, but not be limited to,~~] recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create ***strategies to develop*** awareness among ***superintendents, principals, school-based decision making councils, and*** secondary school guidance counselors of the need for minority teachers ***and administrators;***

(d) Develop programs or courses for middle school and high school students to encourage talented students to consider teaching as a career;

(e) Create incentives for students to enter teacher preparation programs;

(f) Create incentives for schools and school districts that reach diversity goals; and

(g) Give technical assistance to local school personnel for strategies for minority recruitment to be included in the general recruitment and employment programs required under Section 4 of this Act.

(2) Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education.

(3) ***The Education Professional Standards Board shall hold teacher preparation programs to high standards for recruiting and retaining a diverse staff and a pool of teacher preparation candidates.***

(4) The Education Professional Standards Board ***and the Kentucky Department of Education*** shall periodically submit a report to the Interim Joint Committee on Education that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 34. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly***, including the Education Professional Standards Board***, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620;~~[.]~~

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 35. For purposes of Sections 35 to 44, of this Act, "former Education Professional Standards Board" means the board that was created in 1990 by the General Assembly and authorized in KRS 161.028, which is amended in Section 25 of this Act; and "new Education Professional Standards Board" means the board created by Section 5 of this Act and authorized on the effective date of this Act. The term "acting executive director" may be used interchangeably with the term "executive director."

Section 36. The terms of the members of the former Education Professional Standards Board shall terminate as of the effective date of this Act, but the members of the former board shall continue to serve until the members of the new Education Professional Standards Board created in Section 5 of this Act are appointed by the Governor. Persons serving on the former Education Professional Standards Board as of the effective date of this Act may be appointed to the board established in Section 5 of this Act and may serve two (2) additional full consecutive terms.

Section 37. The executive secretary of the former board at the effective date of this Act shall become the acting executive director of the new board. The acting executive director shall provide the leadership and guidance to effect an orderly transition of board matters from the former board to the new board.

(1) No later than (60) days after the first meeting of the Education Professional Standards Board, the board shall extend a contract to the acting executive director or inform the acting executive director of the board's intention to open a search.

(2) The executive director shall recommend to the board the staffing positions and organizational structure, and the personnel policies necessary to carry out the responsibilities of the board. Upon approval of the organizational structure by the board, the executive director shall appoint staff to fill the positions.

(3) Between the effective date of this Act and the official transfer of employees from the Office of Teacher Preparation and Certification, Kentucky Department of Education, to the employment of the new board, the employees within the office shall report to the acting executive director of the new board. The acting executive director shall have all approval authority over personnel actions for employees in the office. It is the intent of the General Assembly that the commissioner of education and the Department of Education and other agencies of state government work together to facilitate an orderly transition.

(a) Effective September 1, 2000, employees with merit status under the KRS Chapter 18A personnel system shall be transferred to the employment of the Education Professional Standards Board and shall transfer all accumulated annual leave, compensatory time, and sick leave.

(b) Effective September 1, 2000, unclassified employees in the KRS Chapter 18A personnel system who are employed in the Office of Teacher Education and Certification may be transferred to the new board, pending approval by the executive director. If the executive director does not approve a transfer, the unclassified employee shall be terminated under the rules of KRS Chapter 18A that apply to unclassified staff. Transferred employees shall transfer all accumulated annual leave, compensatory time, and sick leave.

(c) Effective September 1, 2000, unclassified employees who are employed in the Office of Teacher Education and Certification under a memorandum of agreement or a contract with another educational agency may be transferred to the new board, pending approval by the executive director. If the executive director does not approve a transfer, the unclassified employee shall be terminated under the rules of his or her existing contract. Transferred employees shall transfer all accumulated annual leave, compensatory time, and sick leave.

(d) Employees transferred to the board under paragraphs (a) to (c) of this subsection shall participate in the same retirement system they were in at the time of the transfer.

(e) The amendment to KRS 12.020 in Section 12 of this Act and to KRS 12.023 in Section 13 that moves the Education Professional Standards Board to another organizational structure and the amendment to KRS 18A.115 in Section 14 of this Act that moves the employees from the KRS Chapter 18A personnel system are not effective until September 1, 2000.

Section 38. All equipment, records, resources, and other materials of the former Education Professional Standards Board and the Office of Teacher Preparation and Certification, Kentucky Department of Education, shall be transferred to the new Education Professional Standards Board at an appropriate date, which shall be established by the state budget director in cooperation with the commissioner of education, the executive director of the board, and other appropriate state agencies, but not later than September 1, 2000.

Section 39. The Governor's Office of Policy and Management, with approval of the state budget director, shall make any necessary adjustments in the allocations and appropriations to the Kentucky Department of Education and transfer the funds to the Education Professional Standards Board as appropriate and consistent with the transition of programs, employees, and funding requirements necessitated by this Act.

Section 40. By January 1, 2001, the Education Professional Standards Board, in collaboration with teacher preparation institutions, shall review the current practices related to preparation of student teachers in all private and public teacher preparation institutions and determine minimum criteria that all approved institutions shall meet for student teaching and early field experiences for prospective teachers. The review shall include a review of the initial selection process of student teaching sites as well as the supervising teachers, the training provided to supervising teachers, compensation for supervising teachers, ongoing evaluation of student teaching sites and the quality of the supervising experiences, support provided to the supervising teacher from the college or university, and other related issues. If needed, the current administrative regulations relating to student teaching and early field experiences shall be amended for implementation no later than August, 2001.

Section 41. The Education Professional Standards Board shall study the feasibility of allowing retired teachers on an annual basis to serve in areas where there is a content, geographic, or diversity shortage without jeopardizing retirement benefits. The study shall include input from Kentucky Teachers' Retirement System. A report shall be made to the Interim Joint Committee on Education by October 15, 2001.

Section 42. The Education Professional Standards Board shall contract for a third-party comprehensive review of the current statutory requirements of the internship program for new teachers, the strengths and weaknesses, and the desirability as well as feasibility of providing a second year of formal mentoring and support for each teacher who has successfully completed the initial internship requirements to ensure continued growth of the new teacher. The board shall make a report with recommendations relating to program design and funding to the Interim Joint Committee on Education prior to the 2002 Regular Session of the General Assembly.

Section 43. The Education Professional Standards Board shall consider options for monetary and time incentives as well as unique program designs that can increase the number of qualified candidates for the school principalship but shall also require recommendations for admission into the program. The board shall present a detailed proposal for consideration by the Regular Session of the 2002 General Assembly.

Section 44. Whereas it is critical that specific personnel and board appointments be made as quickly as possible to allow for an orderly transition of the Education Professional Standards Board from one governance structure to another, and whereas there are several operating and programmatic changes required by this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute No. 1 to **HB 437** is as follows:

HB 437, AN ACT relating to education and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) There is created a commission to be composed of the commissioner of education, the president of the Council on Postsecondary Education, the executive director of the Education Professional Standards Board, the president of the Association of Kentucky Independent Colleges and Universities, three (3) members of the Kentucky Board of Education that are chosen by the board, the commissioner of the Department for Adult Education and Literacy, and three (3) members of the Council on Postsecondary Education that are chosen by the council. The commission shall be known as the P-16 Commission.

(2) The purposes of the commission shall be to:

- *(a) Promote cooperation and communication among elementary, secondary, postsecondary, and adult education teachers and administrators;*
- *(b) Study areas of curricula, management, and policy that support or restrict an effective, seamless system of education;*
- *(c) Advocate the elimination of barriers impeding student transition from preschool through baccalaureate programs;*
- *(d) Inform and advise the legislature and the respective education councils, boards of education, the general public including parents, students, and teachers, boards of trustees, and boards of regents on relevant education matters; and*
- *(e) Suggest programs to increase the number and diversity of students pursuing postsecondary education that persuade parents and students to plan early for advanced education.*

(3) The commission shall annually determine a working agenda; set meeting dates; establish working groups; sponsor appropriate research; suggest ways to improve coordination of education resources; and establish timetables for making recommendations as appropriate.

(4) The commissioner of education and the president of the council shall provide staff support for the work of the commission.

(5) During the year 2000, as the initial phase to achieve its purpose, the commission shall conduct a review of the curricula alignment among elementary, middle, secondary, and postsecondary education, including teacher preparation programs. They shall report to the Interim Joint Committee on Education their findings and recommendations by January 1, 2001.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Education shall establish statewide standards for evaluation and support for improving the performance of all certified school personnel.

(2) The performance criteria on which teachers and administrators shall be evaluated shall include, but not be limited to:

- *(a) Performance of professional responsibilities related to his or her assignment , including attendance and punctuality and evaluating results;*
- *(b) Demonstration of effective planning of curricula, classroom instruction, and classroom management, based on research-based instructional practices, or school management skills based on validated managerial practices;*
- *(c) Demonstration of knowledge and understanding of subject matter content or administrative functions and effective leadership techniques;*
- *(d) Promotion and incorporation of instructional strategies or management techniques that are fair and respect diversity and individual differences;*
- *(e) Demonstration of effective interpersonal, communication, and collaboration skills among peers, students, parents, and others;*
- *(f) Performance of duties consistent with the goals for Kentucky students and mission of the school, the local community, laws, and administrative regulations;*
- *(g) Demonstration of the effective use of resources, including technology;*
- *(h) Demonstration of professional growth;*
- *(i) Adherence to the professional code of ethics; and*
- *(j) Attainment of the teacher standards or the administrator standards as established by the Education Professional Standards Board that are not referenced in paragraphs (a) to (i) of this subsection.*

(3) The certified employee evaluation programs shall contain the following provisions:

- *(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the* *local school district and approved by the Kentucky Department of Education.*

(b) The local evaluation system shall include formative evaluation and summative evaluation.

1. "Formative evaluation" means a continuous cycle of collecting evaluation information and interacting and providing feedback with suggestions regarding the certified employee's professional growth and performance; and

2. "Summative evaluation" means the summary of, and conclusions from, the evaluation data, including formative evaluation data, that:

a. Occur at the end of an evaluation cycle; and

b. Include a conference between the evaluator and the evaluated certified employee, and a written evaluation report.

(c) The Kentucky Board of Education shall adopt administrative regulations, incorporating written guidelines for a local school district to follow in developing, implementing, and revising the evaluation system and shall require the following:

1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;

2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator. At the request of a teacher observations by other teachers trained in the teacher's content area or curriculum content specialists may be incorporated into the formative process for evaluating teachers;

3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;

4. Evaluators shall be trained, tested, and approved in accordance with administrative regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;

5. The evaluation system shall include a plan whereby the person evaluated is given assistance for professional growth as a teacher or administrator. The system shall also specify the processes to be used when corrective actions are necessary in relation to the performance of one's assignment; and

6. The training requirement for evaluators contained in subparagraph 4. of this paragraph shall not apply to district board of education members.

(4) A local district may request from the Kentucky Department of Education a waiver from the guidelines and administrative regulations promulgated by the Kentucky Board of Education as required in subsection (3)(c) of this section in order to implement an alternative evaluation plan for employees on continuing contracts. The department shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:

(a) Phase One: Evaluation for Professional Growth.

1. Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and

2. Evaluation does not include documentation that might adversely affect employment status.

(b) Phase Two: Transition.

1. Evaluation is for the purpose of intensive scrutiny of job performance;

2. Evaluation includes documentation that may lead to adverse employment decisions;

3. Assistance and support for improvement shall be provided by the school district; and

4. Placement of an individual in the transition phase shall not be subject to appeal, but the employee shall be notified of the decision in writing.

(c) Phase Three: Evaluation for Deficiency.

1. Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;

2. A clear time frame for proposed actions is provided the employee; and

3. The summative evaluation is subject to appeal.

An alternative plan for the evaluation of certified personnel shall be proposed to the Kentucky Department of Education if the local district evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The department shall provide technical assistance to districts *wishing to develop alternative evaluation plans.*

(5) The Kentucky Board of Education shall establish an appeals procedure for certified school employees who believe that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personnel evaluations.

(6) The local board of education shall establish an evaluation appeals panel for certified personnel that shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (4) of this section, the appeal shall only apply to the summative evaluation of Phase Three.

(7) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall have an evaluation system but may request a waiver from procedures or processes described in this section that the Kentucky Board of Education views as unmanageable in a large district as long as the plan meets the standards established by the Kentucky Board of Education for local school district evaluation systems. The local plan shall include an appeals process for employees who believe they were not fairly evaluated.

(8) Between July 15, 2000, and June 30, 2001, each school district shall review its local evaluation system to assure that the system is working effectively and to make changes to improve its system.

(9) Beginning with the 2001-2002 school year and subsequent years, the Kentucky Department of Education shall annually provide for on-site visits by trained personnel to a minimum of fifteen (15) school districts to review and insure appropriate implementation of the evaluation system by the local school district. The department shall provide technical assistance to local districts to eliminate deficiencies and to improve the effectiveness of their evaluation systems. The department may implement the requirement in this section in conjunction with other requirements, including but not limited to the scholastic audit process required by KRS 158.6455.

SECTION 3. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) Each local board of education shall adopt a recruitment and employment plan to attract a well-trained, diverse classified and certified staff. For purposes of this section, "diverse staff" means persons of different cultural backgrounds, race, including Caucasian and minority as defined in Section 20 of this Act, and persons representing the two (2) sexes.

(2) The recruitment and employment plan shall be developed under the guidance of the superintendent with input from teachers, administrators, classified staff, and others as deemed appropriate.

(3) (a) The recruitment and employment plan shall include, but not be limited to:

1. Training for local board of education members in procedures and processes to be used when employing a superintendent of schools;

2. Training for principals and school-based decision making council members in recruiting and interviewing techniques;

3. Outreach strategies to fulfill requirements under subsection (2)(d) of Section 22 of this Act; and

4. Strategies to allow candidates to demonstrate leadership qualities and subject matter competencies.

(b) The recruitment and employment plan may include:

1. Early recruitment programs to encourage middle and high school students to pursue teaching as a career;

2. Incentive programs to assist existing paraprofessionals in the district to pursue teacher certification;

3. Marketing programs to enlist a variety of job applicants; and

4. Other strategies as deemed appropriate.

(4) The local board of education may utilize programs offered by professional organizations and by private and public providers for services to meet the requirements of this section, may develop its own plan, or may contract for services needed.

(5) The Kentucky Department of Education shall provide technical assistance to districts in the development and implementation of recruitment and training plans.

(6) The local district shall provide the opportunity to complete an exit interview or written survey or combination thereof to all employees who terminate employment to determine ways to improve the school district.

(7) At a district's request, the department may approve leadership credit as described in Section 16 of this Act for a local training program as described in subsection (3) of this section.

(8) The local training program referenced in subsection (3) of this section may be approved by the local district for

professional development of teachers under provisions of Sections 15 and 19 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 2001, the Kentucky Department of Education, with help from representatives of the Education Professional Standards Board, the Council on Postsecondary Education, the Kentucky Higher Education Assistance Authority, the Association of Independent Kentucky Colleges and Universities, public and private not-for-profit postsecondary institutions, and local educational agencies, shall develop a plan, including timelines for implementation, for a multidimensional recruitment and information program, to encourage persons to enter the teaching profession and to seek employment in Kentucky.

(2) The program shall not supplant or diminish current efforts required under Section 33 of this Act.

(3) The components of the program shall include:

- *(a) Early recruitment programs to inform middle and high school students about the potential of teaching as a career;*
- *(b) Programs to encourage paraprofessionals in schools, as well as other nontraditional students, to pursue additional education to become teachers;*
- *(c) Programs to enlist highly skilled career employees in specific content areas to pursue teaching as a second career;*
- *(d) Options for recruiting persons with liberal arts and sciences major and current students with nondeclared majors into nontraditional and accelerated teacher preparation programs;*
- *(e) Marketing strategies for informing the public of the importance of high quality teaching to student achievement, the value of teachers to society as a whole, the benefits and rewards of teaching, and the options for entering teacher preparation, including scholarship information;*
- *(f) Establishing pilot programs relating to the purposes listed in paragraphs (a) to (e) of this subsection throughout the state, based upon available funds appropriated for these purposes; and*
- *(g) Expanding the Kentucky Department of Education's electronic bulletin board for certified vacancies in local school districts to include an option for potential teachers to voluntarily post their availability for education positions within the state.*

(4) For fiscal year 2001-2002, the Department of Education shall award grants to selected educational agencies through a competitive request for proposal process for pilot or demonstration projects to fulfill one (1) or more purposes of the recruitment into teaching program as listed in subsection (3) of this section.

(5) No later than March 15, 2001, the Department of Education shall present a status report of the recruitment and information program to the Interim Joint Committee on Education; and no later than October 15, 2001, the Department of Education shall present to the Interim Joint Committee on Education and the Interim Joint Committee on Appropriations and Revenue a summary report with recommendations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created and established an Education Professional Standards Board in Kentucky as an agency, instrumentality, and political subdivision of the Commonwealth and a public body corporate and politic having all powers, duties, and responsibilities as are provided to it by law.

(2) The board shall be composed of nineteen (19) voting members including two (2) ex officio members, the commissioner of education or designee and the president of the Council on Postsecondary Education or designee, and seventeen (17) gubernatorial appointees. The gubernatorial appointees shall be as follows:

- *(a) Ten (10) members who are practicing educators in primary to twelfth grade consisting of eight (8) teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational programs and two (2) school administrators;*
- *(b) One (1) member representative of local boards of education;*
- *(c) Five (5) members representative of postsecondary institutions, including:*
    - *1. Two (2) representatives of colleges, departments, or schools of education at public universities;*
    - *2. Two (2) representatives from the colleges or schools of arts and sciences, one (1) of which may be from an independent not-for-profit college or university; and*
    - *3. One (1) chief academic officer of an independent not-for-profit college or university; and*
- *(d) One (1) citizen member.*

(3) Insofar as possible, the Governor shall assure broad geographical representation; shall assure equal representation of the two (2) sexes; and shall assure that appointments reflect the minority racial composition of the Commonwealth.

- *(a) Practicing educators, appointed to the board, shall have at least five (5) years of teaching or a combination of teaching and administrative experience.*

1. Teachers shall have demonstrated leadership by having served as a department chair, mentor or guide to another teacher, member of a school-based decision making council, supervising teacher, or resource teacher, or by having served in a local, regional, or state role that provided a broad understanding of classroom management, teacher development, and school leadership.

2. Administrators shall have demonstrated a variety of leadership activities within the school and the district that led to instructional improvements within the school.

(b) The citizen member shall have a demonstrated interest in the public schools.

(4) Except for the initial appointments, all board members shall be appointed to serve four (4) year terms. Initial appointments to the board shall be made no later than sixty (60) days from the effective date of this Act as follows:

(a) Four (4) of the practicing educators shall be appointed to terms to expire April 30, 2004; three (3) practicing educators shall be appointed to terms to expire April 30, 2003; and three (3) practicing educators shall be appointed to terms to expire April 30, 2002;

(b) Two (2) of the appointees representative of postsecondary education institutions shall be appointed to terms to expire April 30, 2002, and three (3) appointees representative of postsecondary education institutions shall be appointed to terms to expire April 30, 2003;

(c) The appointee representative of local boards of education shall be appointed to a term to expire April 30, 2002; and

(d) The citizen appointee shall be appointed to a term to expire April 30, 2004.

The board shall meet no later than thirty (30) days from the date of the appointment of the members.

(5) Appointees to the board shall not serve more than two (2) consecutive terms.

(6) A member whose term has expired shall continue to serve until a successor is named.

(7) Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he or she was appointed shall no longer be eligible to serve in that position.

(8) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs.

(9) All members of the Education Professional Standards Board shall participate in a training and orientation program of no less than twelve (12) clock hours of training within the first thirty (30) days following their initial appointment.

(a) The executive director of the board or designee shall plan, organize, and arrange for the training.

(b) The training and orientation program shall include, but not be limited to, a review of the statutory responsibilities of the board and all laws relating to the board and programs under the jurisdiction of the board, statutory program requirements, legal procedures utilized by the board, the administrative regulations review process, administrative and operating procedures, appropriations to the board, and parliamentary procedure.

(c) Subsequent to initial training as described in this subsection, all members of the board shall annually participate in a training session of three (3) or more clock hours. The content of the annual training shall be based on the needs of the board members.

(d) Members shall not be eligible to vote on matters of policy until the initial training requirements as described in this subsection are fulfilled.

(10) Members of the board shall serve without compensation. Public employees shall be permitted to attend board meetings and perform other board business without loss of income or other benefits. All appointed members of the board shall be entitled to reimbursement of necessary expenses to attend meetings of the board and expenses for other official board business with approval of the board. Mileage shall be reimbursed at the approved rate for state employees. The costs of lodging and meals shall be reimbursed at actual costs but not to exceed a maximum figure as established by the board. The board shall establish the guidelines and operating procedures for expense reimbursement.

(11) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his or her employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.

(12) A chair and vice chair shall annually be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chair. The executive director or a designee shall keep records of proceedings. Regular meetings shall be held at least quarterly on call of the chair.

(13) A quorum shall be a majority of the membership of the board.

(14) A quorum shall be required to organize and conduct the business of the board.

(15) The Governor may remove a board member for cause, which shall include neglect of duty or malfeasance in office.

(16) To carry out the functions relating to its duties and responsibilities, the board is empowered to employ staff; to receive donations and grants of funds; to employ consultants as needed; to enter contracts; and to sponsor studies, conduct

conferences, and publish information.

SECTION 6. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall set the qualifications and salary for the position of executive director of the board. When it is necessary to fill the position of executive director, the board shall conduct a comprehensive search for candidates and may employ a search firm if it deems it necessary.

(2) The executive director shall possess broad-based experience in education and teacher development, and have demonstrated leadership skills in addition to other qualifications to be established by the board.

(3) The executive director shall be awarded a contract to serve a term, not to exceed four (4) years, which is renewable at the pleasure of the board.

(4) The executive director shall be responsible for the day-to-day operations of the board; set up appropriate organizational structures and personnel policies for approval by the board; appoint all staff; prepare annual reports on the board's program of work; carry out policy and program directives of the board; prepare and submit to the board for its approval the proposed biennial budget of the board; and perform all other duties and responsibilities assigned by state law.

(5) With approval of the board, the executive director may enter into agreements with any state agency or political subdivision of the state, any postsecondary education institution, or any other person or entity to enlist assistance to implement the duties and responsibilities under Section 25 of this Act.

(6) The executive and other staff of the board shall be reimbursed for expenses based on the per diem and travel reimbursements paid to all other state employees.

SECTION 7. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) (a) By January 15, 2001, the Education Professional Standards Board in cooperation with the Kentucky Department of Education and teacher preparation institutions shall design procedures to determine whether each teacher who on July 1, 2001, is teaching one (1) or more content areas in grades five (5) through eight (8) in a middle school is adequately prepared in the subject matter and the teaching methodologies appropriate to each content area for which he or she is assigned. The evidence of adequate preparation may be established if the teacher has a minor or major or the academic equivalent in the content area, or is otherwise qualified, as described in paragraph (b) of this subsection.

(b) The board shall promulgate administrative regulations that identify the options that a teacher may request to be used to determine his or her level of preparation, which shall include:

1. Documentation of successful completion of professional development or college course work in the specific content areas since his or her initial certification;

2. Performance on competency tests or performance assessments;

3. Results of classroom evaluations by other teachers trained in the content area;

4. Documentation of outstanding performance by students on state and national assessments or in student competitions;

5. Distinguished achievement and recognition by other professionals for teaching in the content area by a recognized national or state-level organization; or

6. Documentation through other methods or alternatives requested by a teacher and approved by the Education Professional Standards Board.

The administrative regulations shall also define the timelines and corrective action steps that shall be taken at the district level and by the affected teacher to improve his or her preparation. A teacher shall be given two (2) school years from the time the administrative regulations become effective to meet the requirements established by this subsection.

(c) The Kentucky Department of Education, local school districts, and postsecondary education institutions shall provide, as much as possible, access to in-depth, professional development options, including summer institutes, virtual courses, subject matter academies, or other planned programs to those teachers identified as lacking sufficient preparation in one (1) or more content areas that they are teaching.

(d) A teachers' professional growth fund is hereby created to provide middle school teachers who have been identified as needing additional preparation with stipends and tuition reimbursement for participation in and successful completion of college or university-level course work in their content area; or reimbursement for other approved professional development activities including travel to and from workshops, institutes, and other schools in order to observe and consult with teachers in their content areas. The fund shall be administered by the Kentucky Department of Education in compliance with guidelines as described in the biennial budget for this purpose.

(e) If a tenured teacher has not corrected the deficiencies after two (2) years, the teacher shall be reassigned to a

position for which he or she is sufficiently prepared.

(2) (a) By January 15, 2001, the Education Professional Standards Board shall define "out-of-field" teaching and inform all local school districts of the definition. The board shall review its policies relating to emergency certificates as it develops a definition and consider if these policies contribute to the problem of out-of-field teaching.

(b) By October 15, 2001, the Education Professional Standards Board shall identify every teacher assigned classes out-of-field in the 2001-2002 school year and shall inform the Kentucky Department of Education.

(c) The Kentucky Department of Education shall provide to each school district a summary of the teachers identified as teaching out-of-field and give the district opportunity to correct the situation during the year. Effective with the 2002-2003 school year and subsequent school years, the Kentucky Department of Education shall deduct from the funds allocated to the school district under KRS 157.360 a proportional amount of funds for each class period a teacher is assigned to an out-of-field class. The funds shall be calculated on the placement of the teacher on the biennial budget salary schedule for rank and experience. The fund deduction shall be from the next payment to the district after the out-of-field calculations have been determined. No teacher shall be reduced in salary due to being involuntarily moved out-of-field or being hired into a position out of his or her field. Emergency certification shall not be a valid reason for reducing any certified teacher's salary. No vacancy shall be filled by a person out-of-field if there is a certified candidate for the position.

SECTION 8. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) The Education Professional Standards Board shall rank teachers as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding emergency certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding emergency certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(2) In determining ranks, the Education Professional Standards Board shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The board, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(3) For purposes of the state salary schedule only as referenced in Section 18 of this Act, rank shall be determined on September 15 of each year.

(4) Nothing in this section shall allow the Education Professional Standards Board by regulation to reclassify downward any teachers in Ranks II or I.

SECTION 9. A NEW SECTION OF KRS CHAPTER 161 IS CREATED TO READ AS FOLLOWS:

(1) From the funds appropriated for the minority educator recruitment and retention program specified in Section 33 of this Act, scholarships shall be provided to minority students to recruit them into the teaching profession.

(2) The scholarships may be used at the public postsecondary universities and in independent, regionally accredited, not-for-profit institutions offering teacher education programs and shall be available to Kentucky residents and out-of-state students who meet the other qualifications for entry into teacher education at the university.

(3) A scholarship recipient shall sign a promissory note requiring the recipient to teach in Kentucky one (1) semester for each semester the recipient receives scholarship funds. If a recipient does not teach in Kentucky, the scholarship converts to a loan with interest. The Kentucky Department of Education may enter into an agreement with the Kentucky Higher Education Assistance Authority to monitor enrollment and subsequent teaching status of scholarship recipients, enforce the repayment of the loan based on valid and enforceable promissory notes and complete recipient data, and cancel the repayment obligation. An agreement executed under this subsection shall provide for payment of administrative costs incurred by the Kentucky Higher Education Assistance Authority related to performance of the agreement from amounts repaid by recipients of the scholarship.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

No postsecondary education institution shall receive funds from the Council on Postsecondary Education from any trust fund for the purposes of teacher education or model programs of teaching and learning unless the Education Professional Standards Board has certified to the council that the institution has met the following conditions:

(1) The college or university has developed viable partnerships with local school districts and schools;

(2) There is evidence of ongoing dialogue and collaboration among liberal arts and sciences faculty and administrators with faculty and administrators in the department, school, or college of education;

(3) The college or university has demonstrated a commitment to participate in teacher academies;

(4) The college or university has an active recruitment plan for attracting and retaining minority faculty as well as students, and particularly in the department, school, or college of education;

(5) The college or university has initiated the development of incentives or rewards for faculty across the institution to participate in service activities to local schools;

(6) The department, school, or college of education has developed at least one (1) accelerated alternative plan for teacher education or nontraditional program of teacher preparation, or commits to developing an accelerated alternative or nontraditional program;

(7) The department, school, or college of education provides consistent and quality classroom and field experiences, including early practicums and student teaching experience for all students;

(8) The department, school, or college of education has as an element of its curriculum, substantial course work and classroom and field experiences directly addressing teacher training in classroom management;

(9) There are no major accreditation deficiencies; and

(10) The institution has demonstrated at least one (1) or more innovations in teacher education.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) In recognition of valuable service to the preparation of teachers and the need for all teachers to have continual professional growth, a supervising teacher as referenced in Section 27 of this Act or a resource teacher as referenced in Section 26 of this Act may, with prior approval of the course-offering institution, take a maximum of six (6) credit hours per term at any public postsecondary institution and pay no tuition. The postsecondary institution shall waive the tuition up to a maximum of six (6) credit hours.

(2) The teachers covered in this section may exercise the tuition-free course option, only if there is available space within a given course offering. A postsecondary institution shall not be required to establish a course to meet teacher requests.

(3) The tuition-free courses may be used to partially satisfy requirements for an advanced degree.

(4) Each public postsecondary education institution shall establish the procedures for implementing the provisions of this section, effective August 1, 2000.

Section 12. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:

1. The Governor.
2. Lieutenant Governor.
3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
4. Department of Law.
    (a) Attorney General.
5. Department of the Treasury.
    (a) Treasurer.
6. Department of Agriculture.

(a) Commissioner of Agriculture.
(b) Kentucky Council on Agriculture.
7.[~~Superintendent of Public Instruction.~~
~~8.~~] Auditor of Public Accounts.
8.[~~9.~~] Railroad Commission.
II. Program cabinets headed by appointed officers:
1. Justice Cabinet:
(a) Department of State Police.
(b) Department of Criminal Justice Training.
(c) Department of Corrections.
(d) Department of Juvenile Justice.
(e) Office of the Secretary.
(f) Offices of the Deputy Secretaries.
(g) Office of General Counsel.
(h) Division of Kentucky State Medical Examiners Office.
(i) Parole Board.
(j) Kentucky State Corrections Commission.
(k) Commission on Correction and Community Service.
2. Education, Arts, and Humanities Cabinet:
(a) Department of Education.
(1) Kentucky Board of Education.
[~~(2) Education Professional Standards Board.~~]
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.
3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.
4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.

    (d) Department of Fiscal Management.
    (e) Department of Rural and Municipal Aid.
    (f) Office of General Counsel.
    (g) Office of Public Affairs.
    (h) Office of Personnel Management.
    (i) Office of Minority Affairs.
    (j) Office of Environmental Affairs.
    (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
    (a) Department of Administration and Support.
    (b) Department of Job Development.
    (c) Department of Financial Incentives.
    (d) Department of Community Development.
    (e) Tobacco Research Board.
    (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
    (a) Public Service Commission.
    (b) Department of Insurance.
    (c) Department of Housing, Buildings and Construction.
    (d) Department of Financial Institutions.
    (e) Department of Mines and Minerals.
    (f) Department of Public Advocacy.
    (g) Department of Alcoholic Beverage Control.
    (h) Kentucky Racing Commission.
    (i) Board of Claims.
    (j) Crime Victims Compensation Board.
    (k) Kentucky Board of Tax Appeals.
    (l) Backside Improvement Commission.
    (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:
    (a) Department for Social Insurance.
    (b) Department for Social Services.
    (c) Public Assistance Appeals Board.
    (d) Office of the Secretary.
    (e) Office of the General Counsel.
    (f) Office of Program Support.
    (g) Office of Family Resource and Youth Services Centers.
    (h) Office of Technology Services.
    (i) Office of the Ombudsman.
    (j) Office of Aging Services.
8. Cabinet for Health Services.
    (a) Department for Public Health.
    (b) Department for Medicaid Services.
    (c) Department for Mental Health and Mental Retardation Services.
    (d) Kentucky Commission on Children with Special Health Care Needs.
    (e) Office of Certificate of Need.
    (f) Office of the Secretary.
    (g) Office of the General Counsel.

(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Office of Capital Plaza Operations.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
(w) Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor-Management Relations and Mediation.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.

    (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    (a) Department of Travel.
    (b) Department of Parks.
    (c) Department of Fish and Wildlife Resources.
    (d) Kentucky Horse Park Commission.
    (e) State Fair Board.
    (f) Office of Administrative Services.
    (g) Office of General Counsel.
13. Cabinet for Workforce Development:
    (a) Department for Adult Education and Literacy.
    (b) Department for Technical Education.
    (c) Department of Vocational Rehabilitation.
    (d) Department for the Blind.
    (e) Department for Employment Services.
    (f) State Board for Adult and Technical Education.
    (g) Governor's Council on Vocational Education.
    (h) The State Board for Proprietary Education.
    (i) The Foundation for Adult Education.
    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy and Budget.
    (q) Office of Personnel Services.
    (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
    (a) Office of Administrative and Legal Services.
    (b) Department for Personnel Administration.
    (c) Department for Employee Relations.
    (d) Kentucky Public Employees Deferred Compensation Authority.
    (e) Kentucky Kare.
    (f) Division of Performance Management.
    (g) Division of Employee Records.
    (h) Division of Staffing Services.
    (i) Division of Classification and Compensation.
    (j) Division of Employee Benefits.
    (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
1. Department of Military Affairs.
2. Council on Postsecondary Education.
    (a) Kentucky Commission on Community Volunteerism and Service.
3. Department for Local Government.
4. Kentucky Commission on Human Rights.
5. Kentucky Commission on Women.
6. Department of Veterans' Affairs.

7. Kentucky Commission on Military Affairs.

8. Office of the Chief Information Officer.

9. Education Professional Standards Board.

Section 13. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;

(2) Department of Military Affairs;

(3) Department for Local Government;

(4) ***Education Professional Standards Board;***

(5) Kentucky Commission on Human Rights;

(6)~~[(5)]~~Kentucky Commission on Women;

(7)~~[(6)]~~Kentucky Commission on Military Affairs;

(8)~~[(7)]~~ Coal Marketing and Export Council;

(9)~~[(8)]~~Governor's Office of Child Abuse and Domestic Violence Services;

(10)~~[(9)]~~ Office of the Chief Information Officer; and

(11)~~[(10)]~~ Office of Coal Marketing and Export.

Section 14. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television ***and the executive director of the Education Professional Standards Board***;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the

Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;[~~ and~~]

(aa) Chief information officer of the Commonwealth***;***

(bb) Employees of the Education Professional Standards Board who have been determined to be exempt from classified service by the Education Professional Standards Board, which shall have sole authority for determining the personnel policies and procedures including compensation for the exempt employees; and

(cc) Employees of the Department of Education who have been determined to be exempt from classified service by the Kentucky Board of Education, which shall have sole authority over the exempt employees for setting compensation comparable to the competitive market, with KRS 64.640 notwithstanding as to the position of deputy commissioner and associate commissioner.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 15. KRS 156.095 is amended to read as follows:

(1) The Kentucky Department of Education shall establish, direct, and maintain a statewide program of professional development to improve instruction in the public schools.

(2) Each local school district superintendent shall appoint a certified school employee to fulfill the role and responsibilities of a professional development coordinator who shall disseminate professional development information to schools and personnel. Upon request by a school council or any employees of the district, the coordinator shall provide technical assistance to the council or the personnel that may include ***assisting with needs assessments, analyzing school data,*** planning and evaluation assistance***, organizing district-wide programs requested by school councils or groups of teachers,*** or ***other*** coordination activities.

(a) The manner of appointment, qualifications, and other duties of the professional development coordinator shall be established by Kentucky Board of Education through promulgation of administrative regulations.

(b) The local district professional development coordinator shall participate in the Kentucky Department of Education annual training program for local school district professional development coordinators. The training program may include, but not be limited to, the demonstration of various approaches to needs assessment and planning; strategies for implementing long-term, school-based professional development; strategies for strengthening teachers' roles in the planning, development, and evaluation of professional development; and demonstrations of model professional development programs. The training shall include information about teacher learning opportunities relating to the core content standards. The Kentucky Department of Education shall regularly collect and distribute this information.

(3) The Kentucky Department of Education shall provide or facilitate optional, professional development programs for certified personnel throughout the Commonwealth that are based on the statewide needs of teachers, administrators, and other education personnel. Programs may include classified staff and parents when appropriate. Programs offered or facilitated by the department shall be at locations and times convenient to local school personnel and shall be made accessible through the use of technology when appropriate. They shall include programs that: address the goals for Kentucky schools as stated in KRS 158.6451; engage educators in effective learning processes and foster collegiality and collaboration; and provide support for staff to incorporate newly acquired skills into their work through practicing the skills, gathering information about the results, and reflecting on their efforts. Professional development programs may include, but not be limited to, focus on the following areas:

(a) Curriculum content and methods of instruction for each content area;

(b) School-based decision making;

(c) Performance-based student assessment;

(d) Nongraded primary programs;

(e) Research-based instructional practices;

(f) Instructional uses of technology;

(g) Curriculum design to serve the needs of students with diverse learning styles and skills and of students of diverse cultures;

(h) Instruction of phonics; and

(i) Educational leadership.

(4) The department shall utilize its regional service centers, in addition to collaboration with postsecondary education institutions, education cooperative and consortia, and professional education organizations, to provide local district personnel with access to high quality programming. The department shall assist school personnel in assessing the impact of professional development on their instructional practices and student learning.

(5) The department shall assist districts ***and school councils*** with the development of long-term school and district improvement plans that include multiple strategies for professional development based on the assessment of needs at the school level.

(a) Professional development strategies may include, but are not limited to, participation in ***subject matter academies,*** teacher networks, training institutes, workshops, seminars, and study groups; collegial planning; action research; mentoring programs; appropriate university courses; and other forms of professional development.

(b) In planning the use of the four (4) days for professional development under KRS 158.070, ***school councils and districts shall give*** priority[~~ shall be given~~] to programs that increase teachers' understanding of curriculum content and methods of instruction appropriate for each content area based on individual school plans. ***The district may use*** up to one (1) day[~~ may be used~~] to provide ***district-wide training and*** training that is mandated by state or federal law. Only those employees identified in the mandate or affected by the mandate shall be required to attend the training.

(c) State funds allocated for professional development ***shall***[~~may~~] be used to support professional development initiatives that are consistent with local ***school improvement and professional development*** plans ***and teachers' individual growth plans. The funds may be used***[~~,~~] throughout the year for all staff, including classified and certified staff and parents on school councils or committees. ***A portion of the funds allocated to each school council under Section 20 of this Act shall be used to prepare or enhance the teachers' knowledge and teaching practices related to the content and subject matter that are required for their specific classroom assignments.***

(6) The Department of Education shall ***establish an electronic consumer bulletin board that posts information regarding***[~~contract with an outside agency to complete an analysis of the current status of the statewide~~] professional development ***providers and programs as a service to school district central office personnel, school councils, teachers, and administrators. Participation on the electronic consumer bulletin board shall be voluntary for professional development providers or vendors, but shall include all programs sponsored by the department. Participants shall***

provide the following information: program title; name of provider or vendor; qualifications of the presenters or instructors; objectives of the program; program length; services provided, including follow-up support; costs for participation and costs of materials; names of previous users of the program, addresses, and telephone numbers; and arrangements required. Posting information on the bulletin board by the department shall not be viewed as an endorsement of the quality of any specific provider or program.[~~ The analysis shall include a comparison of models of professional development used in high-performing and award-winning schools. The analysis shall include specific recommendations regarding:~~

~~(a) The effective advancement of a supply and demand system for vendors and consumers of professional development; and~~

~~(b) The development and dissemination through the Internet and other appropriate means of consumer information concerning specific professional development opportunities.~~

~~A written report shall be provided to the Department of Education by October 30, 1998. The Department of Education shall publicly report its actions within six (6) months of the release of the recommendations and subsequently issue annual reports on the status of the statewide professional development program.~~]

(7) [~~During the 1998-1999 and 1999-2000 school years, ~~]The Department of Education shall *facilitate ongoing*[~~conduct an intensive statewide~~] professional development *programs*[~~program~~] to address the characteristics and instructional needs of exceptional students and students at risk of school failure. The professional development shall be developed to meet the specific needs of all certified and classified personnel depending on their relationship with exceptional students and students at risk of school failure. The professional development for instructional personnel shall be designed to provide and enhance skills of personnel to:

(a) Improve the academic achievement of exceptional students and students at risk of school failure;

(b) Significantly reduce the dropout rate of all students; and

(c) Prepare all students for a successful transition to adult life.

(8) By July 1, 2001, the department shall establish teacher academies to the extent funding is available in cooperation with postsecondary education institutions for elementary, middle school, and high school faculty in core disciplines, utilizing facilities and faculty from universities and colleges, local school districts, and other appropriate agencies throughout the state. Priority for participation shall be given to those teachers who are teaching core discipline courses for which they do not have a major or minor or the equivalent. Participation of teachers shall be voluntary.

Section 16. KRS 156.101 is amended to read as follows:

(1) The purpose of this section is to encourage and require the maintenance and development of effective instructional leadership in the public schools of the Commonwealth and to recognize that principals with the assistance of assistant principals, supervisors of instruction, guidance counselors, and directors of special education have the primary responsibility for instructional leadership in the schools to which they are assigned.

(2) For the purpose of this section, *"*instructional leader*"* shall be defined as an employee of the public schools of the Commonwealth *employed*[~~holding a valid certificate~~] as a principal, assistant principal, supervisor of instruction, guidance counselor,[~~ or~~] director of special education*, or other administrative positions deemed by the Education Professional Standards Board to require an administrative certificate*.

(3) In order to carry out the purpose of this section, the Kentucky Board of Education shall establish a statewide program to improve and maintain the quality and effectiveness of instructional leadership in the public schools of the Commonwealth.

(4) The instructional leader improvement program shall contain the following provisions:

(a) Each instructional leader employed by the public schools of the Commonwealth shall participate in a continuing intensive training program designed especially for instructional leaders;

(b) Every two (2) years each instructional leader shall complete an intensive training program approved by the Kentucky Board of Education to include no *fewer*[~~less~~] than forty-two (42) participant hours of instruction;

(c) The Kentucky Board of Education shall prescribe specific criteria for the training program*. The Kentucky Department of Education*[~~and~~] may contract for *specific*[~~the~~] training with qualified agencies or institutions *or approve programs offered by training providers, including local district training programs, except that the department shall insure the requirements of paragraphs (d) and (e) of this subsection are met*;[~~ and~~]

(d) *The department shall insure that between July 15, 2000, and June 30, 2002, every instructional leader defined in this section acquires a minimum of six (6) participant hours of training in diversity and equity issues that influence school climate, student learning needs, and instructional practices. In subsequent years, new administrators shall complete the six (6) hours during the first reporting cycle for leadership credit following their employment as administrators. The department shall insure that programs are available to administrators in all regions of the state on an ongoing basis to enable them to meet the training requirement; and*

(e) Completion of the required *forty-two (42)* participant hours*, including the six (6) hours specified in subsection (d) of this section,* shall be reported to the *department*[~~State Department of Education~~] and to the *Education*

Professional Standards Board by the local school district. If an instructional leader fails to complete the required hours of training, ***the instructional leader***~~[he]~~ shall be placed on probation for one (1) year and, if the training is not completed during the probationary period, ***the instructional leader's***~~[his]~~ certificate shall be revoked ***by the Education Professional Standards Board***.

(5) ***The Kentucky Department of Education shall ensure that training options in human resource management and conflict resolution techniques are available to education leaders throughout the state.***~~[As a means of improving the educational productivity of Kentucky's public schools, of providing a method by which the citizens of the Commonwealth can be assured of measures of accountability of the performance of certified school employees, and of providing encouragement and incentives for certified school employees to improve their performance, the Kentucky Board of Education shall establish a statewide program for improving the performance of all certified school personnel, including instructional leaders.~~

~~(6) The certified employee evaluation programs shall contain the following provisions:~~

~~(a) Each certified school employee, including the superintendent, shall be evaluated by a system developed by the local school district and approved by the Kentucky Board of Education;~~

~~(b) The local school district shall review the evaluation plan to insure compliance with this section. Upon adoption, revisions to the evaluation plan shall be submitted for approval by the Kentucky Board of Education; and~~

~~(c) The Kentucky Board of Education shall notify local school districts of their responsibilities under this subsection, develop written guidelines for local school districts to follow in developing and implementing an evaluation system and shall require the following:~~

~~1. All evaluations of certified employees below the level of the district superintendent shall be in writing on evaluation forms and under evaluation procedures developed by a committee composed of an equal number of teachers and administrators;~~

~~2. The immediate supervisor of the certified school employee shall be designated as the primary evaluator;~~

~~3. All monitoring or observation of performance of a certified school employee shall be conducted openly and with full knowledge of the employee;~~

~~4. Evaluation shall include a conference between the evaluator and the person evaluated;~~

~~5. Evaluators shall be trained, tested, and certified in accordance with regulations adopted by the Kentucky Board of Education in the proper techniques for effectively evaluating certified school employees and in the use of the school district evaluation system;~~

~~6. The evaluation system shall include a plan whereby the person evaluated is given assistance for becoming more proficient as a teacher or administrator; and~~

~~7. The training requirement for evaluators contained in subsection (6)(c)5. of this section shall not apply to district board of education members.~~

~~(7) A local district may request from the Kentucky Board of Education a waiver from the guidelines and administrative regulations promulgated by the state board as required in subsection (6) of this section in order to implement an alternative certified evaluation plan for employees on continuing contracts. The board shall grant a waiver if the alternative plan provides for a three (3) phase certified employee evaluation plan that includes:~~

~~(a) Phase One (1): Evaluation for Professional Growth.~~

~~1. Evaluation is based on a wide array of relevant sources and directed toward general and specific recommendations for improvement; and~~

~~2. Evaluation does not include documentation that might adversely affect employment status.~~

~~(b) Phase Two (2): Transition.~~

~~1. Evaluation is for the purpose of intensive scrutiny of job performance;~~

~~2. Evaluation includes documentation that may lead to adverse employment decisions;~~

~~3. Assistance and support for improvement shall be provided by the school district; and~~

~~4. Placement of an individual in the transition phase is not subject to appeal, but the employee must be notified of the decision in writing.~~

~~(c) Phase Three (3): Evaluation for Deficiency.~~

~~1. Notwithstanding KRS 161.760, written notice of potential termination, reduction of direct classroom responsibility, or other adverse actions and conditions for job retention are given the employee;~~

~~2. A clear time frame for proposed actions is provided the employee; and~~

~~3. The summative evaluation is subject to appeal.~~

~~An alternative plan for the evaluation of certified personnel shall be proposed to the state board if the local district~~

~~evaluation committee is in support of the plan. Training necessary to implement the alternative plan shall be provided to the principals, supervisory personnel, and the employees to be evaluated. The local district shall provide support to implement the plan. The Kentucky Department of Education shall provide technical assistance to districts wishing to develop alternative evaluation plans.~~

~~(8) The State Department of Education shall visit school districts within the Commonwealth as needed to review and insure implementation of the evaluation system by the local school district. The department shall establish an appeals procedure for certified school employees who feel that the local school district failed to properly implement the approved evaluation system. The appeals procedure shall not involve requests from individual certified school employees for review of the judgmental conclusions of their personal evaluations.~~

~~(9) The State Department of Education shall select and train evaluators from outside each local school district to conduct evaluations as needed of a sample of certified school employees within each district in order to validate the effectiveness and accuracy of the local school districts' evaluators.~~

~~(10) Local school districts with an enrollment of sixty-five thousand (65,000) or more students shall be exempt from the requirements of this section except for subsection (11) of this section provided they meet the standards established by the Kentucky Board of Education for local school district evaluation systems.~~

~~(11) The local board of education shall establish an evaluation appeals panel for certified personnel which shall consist of two (2) members elected by the certified employees of the district and one (1) member appointed by the board of education who is a certified employee of the board. Certified employees who think they were not fairly evaluated may submit an appeal to the panel for a timely review of their evaluation. In districts that have adopted an alternative evaluation plan under subsection (7) of this section, the appeal shall only apply to the summative evaluation of Phase Three (3).~~]

(6)[~~(12)~~] This section shall be known as the "Effective Instructional Leadership Act."

Section 17. KRS 156.111 is amended to read as follows:

(1) [~~Prior to July 1, 1992, ~~]The Department of Education shall establish a Superintendents Training Program and Assessment ***Process***[~~Center~~]. The assessment ***process***[~~center~~] shall be modeled after the American Association of School Administrators assessment process or a similar validated process. The department may provide assessment centers regionally ***and may contract for services with individuals and agencies, including universities, to carry out the assessment process. The department shall approve trainers*** and shall provide for assessor training. The ***process***[~~center~~] shall include, but not be limited to, training ***as well as participation in a superintendent's assessment center.***[~~for superintendents in~~] The following subjects ***shall be included, but the process shall not be limited to***:

(a) Core concepts of ***general*** management ***and personnel management, including recruitment, employment, and support of a diverse faculty and staff***;

(b) School-based decision making;

(c) Kentucky school law;

(d) Kentucky school finance;[~~ and~~]

(e) School curriculum and assessment.

(2) At the conclusion of the training, each participant shall complete a written comprehensive examination based on the content of the training. ***Each participant shall also meet the performance requirements of the assessment center.***

(3) In addition to any applicable certification and experience requirements, to be qualified and eligible for continued employment as a school superintendent,[~~ effective July 1, 1994, the school superintendent shall have successfully completed the assessment center process.~~] a person hired for the first time as superintendent in Kentucky after June 30, 1994, shall successfully complete the ***training and*** assessment center process within ***eighteen (18) months***[~~one (1) year~~] of assuming his ***or her*** duties as superintendent.

(4) The Kentucky Board of Education shall adopt administrative regulations to govern the training content, number of hours, written examination, and criteria for successful completion of the training and assessment center process. The board shall also establish the continuing professional development requirements for school superintendents[~~, to be effective July 1, 1994~~].

Section 18. KRS 157.390 is amended to read as follows:

(1)[~~ (a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:~~

~~Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.~~

~~Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.~~

~~Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.~~

~~Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.~~

~~Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.~~

~~(b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.~~

~~(c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.~~

~~(2)~~] ***For purposes of the state teacher salary schedule, teachers shall be placed on the schedule based on certification***[~~ the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each~~] rank ***as established by the Education Professional Standards Board under Section 8 of this Act and*** by their years of experience[~~ for purposes of the state teacher salary schedule~~] as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and
5. Twenty (20) or more years.

(2)[~~(3) (a)~~] The rank and experience of the teacher shall be determined on September 15 ***of each year***.

[~~(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.~~]

(3)[~~(4)~~]The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(4)[~~(5)~~]The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(5)[~~(6)~~]The total amount of money distributable to each district from the public school fund shall ***include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and***[~~be the sum of~~] the allotments in subsections (3) ***and*** (4)[~~, and (5)~~] of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).

(6)[~~(7)~~]***Effective July 1, 2001, local school districts may provide additional salary compensation above the base single salary schedule for teachers who are recruited to serve in critical shortage areas including geographic, subject matter, or diversity; teachers who agree to transfer from a high-performing school to a low-performing school; and persons who serve as classroom teaching partners or mentors in a state-approved program.*** The Kentucky Board of Education shall ***promulgate administrative regulations to define high and low-performing schools, acceptable transfers within districts for shortage areas, and the conditions under which the additional salary compensation may be provided. The administrative regulations shall include the maximum compensation that may be granted to an individual; the approval process; the time limitations; and reporting requirements. A teacher shall not be approved for additional compensation for teaching a specific subject matter area unless the teacher is employed in a shortage area identified by the commissioner of education. The commissioner shall annually identify shortage areas. The commissioner may use any reliable information, including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas. The Education Professional Standards Board shall approve mentor programs related to an expanded internship, nontraditional, or alternative certification program. The Kentucky Board of Education shall approve mentor programs that relate to a locally developed mentor or teaching partner program***[~~create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally-recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized~~

~~compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly]~~.

(7) During the 2000-2002, biennium, the Kentucky Board of Education may approve up to five (5) local school districts to conduct pilot comprehensive professional compensation plans. The pilot plans shall recognize a teacher's professional competency, skills, and knowledge; contributions to improve schools and student achievement and learning; and professional involvement in local, state, and national professional organizations related to his or her academic discipline.

Section 19. KRS 158.070 is amended to read as follows:

(1) The minimum school term shall be one hundred eighty-five (185) days, including no less than the equivalent of one hundred seventy-five (175) six (6) hour instructional days. A board of education may extend its term beyond the minimum term.

(2) Any local board of education operating its schools on a year-round school program basis shall conform with administrative regulations promulgated and adopted by the Kentucky Board of Education upon the recommendation of the ***commissioner of education***~~[chief state school officer]~~, which regulations must be in conformity with the following criteria:

- (a) The year-round school program shall be operated on a fiscal year beginning July 1 and ending June 30;
- (b) A pupil's required attendance in school shall be for at least the minimum instructional term; and
- (c) No teacher shall be required to teach more than the minimum term during the school year.

(3) (a) Each local board of education shall use four (4) days of the minimum school term for professional development and collegial planning activities for the professional staff without the presence of pupils pursuant to the requirements of ***Section 15 of this Act***~~[KRS 156.095]~~. ***At the discretion of the superintendent, one (1) day of professional development may be used for district-wide activities and for training that is mandated by federal or state law. The use of three (3) days shall be planned by each school council, except that the district is encouraged to provide technical assistance and leadership to school councils to maximize existing resources and to encourage shared planning.***

(b) A local board may approve a school's flexible professional development plan that permits teachers or other certified personnel within a school to participate in professional development activities outside the days scheduled in the school calendar or the regularly scheduled hours in the school work day and receive credit towards the four (4) day professional development requirement within the minimum one hundred and eighty-five (185) days that a teacher shall be employed.

- ***1.*** A flexible schedule option shall be reflected in the school's professional development component within the school improvement plan or consolidated plan and approved by the local board. Credit for approved professional development activities may be accumulated in periods of time other than full day segments.
- ***2. No teacher or administrator shall be permitted to count participation in a professional development activity under the flexible schedule option unless the activity is related to the teacher's classroom assignment and content area, or the administrator's job requirements, or is required by the school improvement or consolidated plan, or is tied to the teacher's or the administrator's individual growth plan. The supervisor shall give prior approval and shall monitor compliance with the requirements of this paragraph. In the case of teachers, a professional development committee or the school council by council policy may be responsible for reviewing requests for approval.***

(c) The local board of each school district may use up to a maximum of four (4) days of the minimum school term for holidays; provided, however, any holiday which occurs on Saturday may be observed on the preceding Friday.

(d) Each local board may use two (2) days for planning activities without the presence of pupils.

(e) Each local board may use the number of days deemed necessary for:

- 1. National or state disaster or mourning when proclaimed by the President of the United States or the Governor of the Commonwealth of Kentucky;
- 2. Local disaster which would endanger the health or safety of children; and
- 3. Mourning when so designated by the local board of education and approved by the Kentucky Board of Education upon recommendation of the ***commissioner of education***~~[chief state school officer]~~.

(4) The Kentucky Board of Education, upon recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt administrative regulations governing the use of school days, including days missed from the regular school day as a result of local disaster, as defined in subsection (3)(e)2. of this section, and regulations setting forth the guidelines and procedures to be observed for the approval of the days utilized for the opening and closing of school and the days utilized for professional development and planning activities for the professional staff.

(5) In setting the school calendar, school shall be closed for two (2) consecutive days for the purpose of permitting professional school employees to attend statewide professional meetings. These two (2) days for statewide professional meetings shall be scheduled to begin with the first Thursday after Easter, or upon request of the statewide professional education association having the largest paid membership, the ***commissioner of education***~~[chief state school officer]~~ may designate alternate dates. The ***commissioner of education***~~[chief state school officer]~~ shall designate one (1) additional day during the school year when schools shall be closed to permit professional school employees to participate in regional or district professional meetings. These three (3) days so designated for attendance at professional meetings shall not be counted as a part of the minimum school term. School shall be closed on the day of a regular election, and that day may be used for professional development activities, professional meetings, or parent-teacher conferences.

(6) Students applying for excused absence for attendance at the Kentucky State Fair shall be granted one (1) day of excused absence.

(7) Schools shall provide continuing education for those students who are determined to need additional time to achieve the outcomes defined in KRS 158.6451, and schools shall not be limited to the minimum school term in providing this education. Continuing education time may include extended days, extended weeks, or extended years. A local board of education may adopt a policy requiring its students to participate in continuing education. The local policy shall set out the conditions under which attendance will be required and any exceptions which are provided. The Kentucky Board of Education shall promulgate administrative regulations establishing criteria for the allotment of grants to local school districts. These grants shall be allotted to school districts to provide instructional programs for pupils who are identified as needing additional time to achieve the outcomes defined in KRS 158.6451. A school district that has a school operating a model early reading program under KRS 158.792 may use a portion of its grant money as part of the matching funds to provide individualized or small group reading instruction to qualified students outside of the regular classroom during the school day.

(8) Notwithstanding any other statute, each school term shall include no less than the equivalent of the minimum number of instructional days required by this section.

Section 20. KRS 160.345 is amended to read as follows:

(1) For the purpose of this section:

(a) "Minority" means American Indian; Alaskan native; African-American; Hispanic, including persons of Mexican, Puerto Rican, Cuban, and Central or South American origin; Pacific islander; or other ethnic group underrepresented in the school.

(b) "School" means an elementary or secondary educational institution that is under the administrative control of a principal or head teacher and is not a program or part of another school. The term "school" does not include district-operated schools that are:

1. Exclusively vocational-technical, special education, or preschool programs;
2. Instructional programs operated in institutions or schools outside of the district; or
3. Alternative schools designed to provide services to at-risk populations with unique needs.

(c) "Teacher" means any person for whom certification is required as a basis of employment in the public schools of the state with the exception of principals, assistant principals, and head teachers.

(d) "Parent" means:

1. A parent, stepparent, or foster parent of a student; or
2. A person who has legal custody of a student pursuant to a court order and with whom the student resides.

(2) By January 1, 1991, each local board of education shall adopt a policy for implementing school-based decision making in the district which shall include, but not be limited to, a description of how the district's policies, including those developed pursuant to KRS 160.340, have been amended to allow the professional staff members of a school to be involved in the decision making process as they work to meet educational goals established in KRS 158.645 and 158.6451. The policy may include a requirement that each school council make an annual report at a public meeting of the board describing the school's progress in meeting the educational goals set forth in KRS 158.6451 and district goals established by the board. The policy shall also address and comply with the following:

(a) Except as provided in paragraph (b)2. of this subsection, each participating school shall form a school council composed of two (2) parents, three (3) teachers, and the principal or administrator. The membership of the council may be increased, but it may only be increased proportionately. The teacher representatives shall be Kentucky residents. The parent representatives on the council shall not be employees of the district or employees' relatives, nor shall they be a local board member or his spouse. None of the members shall have a conflict of interest pursuant to KRS Chapter 45A, except the salary paid to district employees.

(b) 1. The teacher representatives shall be elected for one (1) year terms by a majority of the teachers. The parent representatives shall be elected for one (1) year terms. The parent members shall be elected by the parents of students preregistered to attend the school during the term of office in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. A school council, once elected, may adopt a policy setting different terms of office for parent and teacher members subsequently elected, but the terms shall not exceed two (2) years nor be consecutive. The principal or head teacher shall be the chair of the school council.

2. School councils in schools having eight percent (8%) or more minority students enrolled, as determined by the enrollment on the preceding October 1, shall have at least one (1) minority member. If the council formed under paragraph (a) of this subsection does not have a minority member, the principal, in a timely manner, shall be responsible for carrying out the following:

a. Organizing a special election to elect an additional member. The principal shall call for nominations and shall notify the parents of the students of the date, time, and location of the election to elect a minority parent to the council by ballot; and

b. Allowing the teachers in the building to select one (1) minority teacher to serve as a teacher member on the council. If there are no minority teachers who are members of the faculty, an additional teacher member shall be elected by a majority of all teachers. Term limitations shall not apply for a minority teacher member who is the only minority on faculty.

(c) 1. The school council shall have the responsibility to set school policy consistent with district board policy which shall provide an environment to enhance the students' achievement and help the school meet the goals established by KRS 158.645 and 158.6451. The principal or head teacher shall be the primary administrator and the instructional leader of the school, and with the assistance of the total school staff shall administer the policies established by the school council and the local board.

2. If a school council establishes committees, it shall adopt a policy to facilitate the participation of interested persons, including, but not limited to, classified employees and parents. The policy shall include the number of committees, their jurisdiction, composition, and the process for membership selection.

(d) The school council and each of its committees shall determine the frequency of and agenda for their meetings. Matters relating to formation of school councils that are not provided for by this section shall be addressed by local board policy.

(e) The meetings of the school council shall be open to the public and all interested persons may attend. However, the exceptions to open meetings provided in KRS 61.810 shall apply.

(f) After receiving notification of the funds available for the school from the local board, the school council shall determine, within the parameters of the total available funds, the number of persons to be employed in each job classification at the school. The council may make personnel decisions on vacancies occurring after the school council is formed but shall not have the authority to recommend transfers or dismissals.

(g) The school council shall determine which textbooks, instructional materials, and student support services shall be provided in the school. Subject to available resources, the local board shall allocate an appropriation to each school that is adequate to meet the school's needs related to instructional materials and school-based student support services, as determined by the school council.

(h) From a list of applicants submitted by the local superintendent, the principal at the participating school shall select personnel to fill vacancies, after consultation with the school council. Requests for transfer shall conform to any employer-employee bargained contract which is in effect. If the vacancy to be filled is the position of principal, the school council shall select the new principal from among those persons recommended by the local superintendent. ***When a vacancy in the school principalship occurs, the school council shall receive training in recruitment and interviewing techniques prior to carrying out the process of selecting a principal. The council shall select the trainer to deliver the training.*** Personnel decisions made at the school level under the authority of this subsection shall be binding on the superintendent who completes the hiring process. The superintendent shall provide additional applicants upon request when qualified applicants are available.

(i) The school council shall adopt a policy to be implemented by the principal in the following additional areas:

1. Determination of curriculum, including needs assessment and curriculum development;
2. Assignment of all instructional and noninstructional staff time;
3. Assignment of students to classes and programs within the school;
4. Determination of the schedule of the school day and week, subject to the beginning and ending times of the school day and school calendar year as established by the local board;
5. Determination of use of school space during the school day;
6. Planning and resolution of issues regarding instructional practices;
7. Selection and implementation of discipline and classroom management techniques as a part of a comprehensive school safety plan, including responsibilities of the student, parent, teacher, counselor, and principal;

8. Selection of extracurricular programs and determination of policies relating to student participation based on academic qualifications and attendance requirements, program evaluation, and supervision; and

9. Procedures, consistent with local school board policy, for determining alignment with state standards, technology utilization, and program appraisal.

(3) The policy adopted by the local board to implement school-based decision making shall also address the following:

(a) School budget and administration, including: discretionary funds; activity and other school funds; funds for maintenance, supplies, and equipment; and procedures for authorizing reimbursement for training and other expenses;

(b) Assessment of individual student progress, including testing and reporting of student progress to students, parents, the school district, the community, and the state;

(c) School improvement plans, including the form and function of strategic planning and its relationship to district planning, as well as the school safety plan and requests for funding from the Center for School Safety under KRS 158.446;

(d) Professional development plans developed pursuant to ***Section 15 of this Act***~~[KRS 156.095]~~;

(e) Parent, citizen, and community participation including the relationship of the council with other groups;

(f) Cooperation and collaboration within the district, with other districts, and with other public and private agencies;

(g) Requirements for waiver of district policies;

(h) Requirements for record keeping by the school council; and

(i) A process for appealing a decision made by a school council.

(4) In addition to the authority granted to the school council in this section, the local board may grant to the school council any other authority permitted by law. The board shall make available liability insurance coverage for the protection of all members of the school council from liability arising in the course of pursuing their duties as members of the council.

(5) After July 13, 1990, any school in which two-thirds (2/3) of the faculty vote to implement school-based decision making shall do so.~~[By June 30, 1991, each local board shall submit to the chief state school officer the name of at least one (1) school which shall implement school-based decision making the following school year. The board shall select a school in which two-thirds (2/3) of the faculty vote to implement school-based decision making. If no school in the district votes to implement school-based decision making, the local board shall designate one (1) school of its choice.]~~ All schools shall implement school-based decision making by July 1, 1996, in accordance with this section and with the policy adopted by the local board pursuant to this section. Upon favorable vote of a majority of the faculty at the school and a majority of at least twenty-five (25) voting parents of students enrolled in the school, a school performing above its threshold level requirement as determined by the Department of Education pursuant to KRS 158.6455 may apply to the Kentucky Board of Education for exemption from the requirement to implement school-based decision making, and the state board shall grant the exemption. The voting by the parents on the matter of exemption from implementing school-based decision making shall be in an election conducted by the parent and teacher organization of the school or, if none exists, the largest organization of parents formed for this purpose. Notwithstanding the provisions of this section, a local school district shall not be required to implement school-based decision making if the local school district contains only one (1) school.

(6) The Department of Education shall provide professional development activities to assist schools in implementing school-based decision making. School council members elected for the first time shall complete a minimum of six (6) clock hours of training in the process of school-based decision making, ***no later than thirty (30) days after the beginning of the service year for which they are elected to serve.***~~[and]~~ School council members who have served on a school council at least one (1) year shall complete a minimum of three (3) clock hours of training in the process of school-based decision making ***no later than one hundred twenty (120) days after the beginning of the service year for which they are elected to serve***. School council training required under this subsection shall be conducted by trainers endorsed by the Department of Education, and school council members shall complete the required training no later than thirty (30) days after the beginning of the service year for which they are elected to serve. School council members elected to fill a vacancy shall complete the applicable training within thirty (30) days of their election.

(7) A school that chooses to have school-based decision making but would like to be exempt from the administrative structure set forth by this section may develop a model for implementing school-based decision making including, but not limited to, a description of the membership, organization, duties, and responsibilities of a school council. The school shall submit the model through the local board of education to the ***commissioner of education***~~[chief state school officer]~~ and the Kentucky Board of Education, which shall have final authority for approval. The application for approval of the model shall show evidence that it has been developed by representatives of the parents, students, certified personnel, and the administrators of the school and that two-thirds (2/3) of the faculty have agreed to the model.

(8) The Kentucky Board of Education, upon recommendation of the ***commissioner of education***~~[chief state school officer]~~, shall adopt by administrative regulation a formula by which school district funds shall be allocated to each school council. Included in the school council formula shall be an allocation for professional development that is at least sixty-five percent

(65%) of the district's per pupil state allocation for professional development for each student in average daily attendance in the school. The school council shall plan professional development ***in compliance with requirements specified in Sections 15 and 19 of this Act.***[~~with the district's coordinator and other~~] School councils ***of***[~~,~~] small schools shall be encouraged to work with other school councils to maximize professional development opportunities.

(9) (a) No board member, superintendent of schools, district employee, or member of a school council shall intentionally engage in a pattern of practice which is detrimental to the successful implementation of or circumvents the intent of school-based decision making to allow the professional staff members of a school and parents to be involved in the decision making process in working toward meeting the educational goals established in KRS 158.645 and 158.6451 or to make decisions in areas of policy assigned to a school council pursuant to paragraph (i) of subsection (2) of this section.

(b) An affected party who believes a violation of this subsection has occurred may file a written complaint with the Office of Education Accountability. The office shall investigate the complaint and resolve the conflict, if possible, or forward the matter to the Kentucky Board of Education.

(c) The Kentucky Board of Education shall conduct a hearing in accordance with KRS Chapter 13B for complaints referred by the Office of Education Accountability.

(d) If the state board determines a violation has occurred, the party shall be subject to reprimand. A second violation of this subsection may be grounds for removing a superintendent, a member of a school council, or school board member from office or grounds for dismissal of an employee for misconduct in office or willful neglect of duty.

Section 21. KRS 160.180 is amended to read as follows:

(1) As used in this section, "relative" means father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(2) No person shall be eligible to membership on a board of education:

(a) Unless he has attained the age of twenty-four (24) years; and

(b) Unless he has been a citizen of Kentucky for at least three (3) years preceding his election and is a voter of the district for which he is elected; and

(c) Unless he has completed at least the twelfth grade or has been issued a GED certificate or has received a high school diploma through participation in the external diploma program and he is elected after July 13, 1990; and

(d) An affidavit signed under penalty of perjury certifying completion of the twelfth grade or the equivalent as determined by passage of the twelfth grade equivalency examination held under regulations adopted by the Kentucky Board of Education has been filed with the nominating petition required by KRS 118.315; or

(e) Who holds a state office requiring the constitutional oath or is a member of the General Assembly; or

(f) Who holds or discharges the duties of any civil or political office, deputyship, or agency under the city or county of his residence; or

(g) Who, at the time of his election, is directly or indirectly interested in the sale to the board of books, stationery, or any other property, materials, supplies, equipment, or services for which school funds are expended; or

(h) Who has been removed from membership on a board of education for cause; or

(i) Who has a relative as defined in subsection (1) of this section employed by the school district and is elected after July 13, 1990. However, this shall not apply to a board member holding office on July 13, 1990, whose relative was not initially hired by the district during the tenure of the board member.

(3) If, after the election of any member of the board, he becomes interested in any contract with or claims against the board, of the kind mentioned in paragraph (g) of subsection (2) of this section, or if he moves his residence from the district for which he was chosen, or if he attempts to influence the hiring of any school employee, except the superintendent of schools or school board attorney, or if he does anything that would render him ineligible for reelection, he shall be subject to removal from office pursuant to KRS 415.050 and 415.060.

(4) A board member shall be eligible for reelection unless he becomes disqualified.

(5) The annual in-service training requirements for all school board members shall be as follows:

(a) Twelve (12) hours for school board members with zero to three (3) years of experience;

(b) Eight (8) hours for school board members with four (4) to seven (7) years of experience; and

(c) Four (4) hours for school board members with eight (8) or more years of experience.

The Kentucky Board of Education shall identify the criteria for fulfilling this requirement***, except that all local board members shall have at least three (3) hours of training in personnel issues related to the superintendency, including but not limited to fair recruitment practices, effective interviewing techniques, fair employment procedures, and effective evaluation of a superintendent of schools during the 2000-2002 biennium. New board members elected after June 30, 2002, shall meet the training in personnel issues during the first twelve (12) hour training requirement***.

Section 22. KRS 160.380 is amended to read as follows:

(1) As used in this section:

(a) "Relative" shall mean father, mother, brother, sister, husband, wife, son, daughter, aunt, uncle, son-in-law, and daughter-in-law.

(b) "Vacancy" shall mean any certified position opening created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member of a local school district, or a new position created in a local school district for which certification is required. However, if an employer-employee bargained contract contains procedures for filling certified position openings created by the resignation, dismissal, nonrenewal of contract, transfer, or death of a certified staff member, or creation of a new position for which certification is required, a vacancy shall not exist, unless certified positions remain open after compliance with those procedures.

(2) (a) All appointments, promotions, and transfers of principals, supervisors, teachers, and other public school employees shall be made only by the superintendent of schools, who shall notify the board of the action taken. All employees of the local district shall have the qualifications prescribed by law and by the administrative regulations of the Kentucky Board of Education***, of the Education Professional Standards Board,*** and of the employing board. Supervisors, principals, teachers, and other employees may be appointed by the superintendent for any school year at any time after February 1 preceding the beginning of the school year. No superintendent of schools shall appoint or transfer himself to another position within the school district.

(b) When a vacancy occurs in a local school district, the superintendent shall notify the ***commissioner of education***[~~chief state school officer~~] thirty (30) days before the position shall be filled. The ***commissioner of education***[~~chief state school officer~~] shall keep a registry of local district vacancies which shall be made available to the public. The local school district shall***:***

1. Post position openings in ***at least three (3) easily accessible locations within the community***[~~the local board office~~] for public viewing***, one (1) of which may be in the local board office; and***

2. Carry out recruitment strategies as determined locally to assure a diverse certified staff.

If a position is identified as a shortage area, the posting requirements may be waived by the board of education.

(c) When a vacancy needs to be filled in less than thirty (30) days' time to prevent disruption of necessary instructional or support services of the school district, the superintendent may seek a waiver from the ***commissioner of education***[~~chief state school officer~~]. If the waiver is approved, the appointment shall not be made until the person recommended for the position has been approved by the ***commissioner of education***[~~chief state school officer~~]. The ***commissioner of education***[~~chief state school officer~~] shall respond to a district's request for waiver or for approval of an appointment within two (2) working days.

(d) When a vacancy occurs in a local district, the superintendent shall conduct ***internal and out-of-district searches***[~~a search~~] to locate minority teachers to be considered for the position. The superintendent shall, pursuant to administrative regulations of the Kentucky Board of Education, report annually the district's recruitment process and the activities used to increase the percentage of minority teachers in the district.

(e) No relative of a superintendent of schools shall be an employee of the school district. However, this shall not apply to a relative who is a classified or certified employee of the school district for at least thirty-six (36) months prior to the superintendent assuming office, or prior to marrying a relative of the superintendent, and who is qualified for the position the employee holds. A superintendent's spouse who has at least twenty (20) years of service in school systems may be an employee of the school district. A superintendent's spouse who is employed under this provision shall not hold a position in which the spouse supervises certified or classified employees. A superintendent's spouse may supervise teacher aides and student teachers. However, the superintendent shall not promote a relative who continues employment under an exception of this subsection.

(f) No superintendent shall employ a relative of a school board member of the district, unless on July 13, 1990, the board member's relative is an employee of the district, the board member is holding office, and the relative was not initially hired by the district during the tenure of the board member. A relative employed in 1989-90 and initially hired during the tenure of a board member serving on July 13, 1990, may continue to be employed during the remainder of the board member's term. However, the superintendent shall not promote any relative of a school board member who continues employment under the exception of this subsection.

(g) 1. No principal's relative shall be employed in the principal's school, except a relative who is not the principal's spouse and who was employed in the principal's school during the 1989-90 school year.

2. No spouse of a principal shall be employed in the principal's school, except:

a. A principal's spouse who was employed in the principal's school during the 1989-90 school year for whom there is no position for which the spouse is certified to fill in another school operated in the district; or

b. A principal's spouse who was employed in the 1989-90 school year and is in a school district containing no more than one (1) elementary school, one (1) middle school, and one (1) high school.

3. A principal's spouse who is employed in the principal's school shall be evaluated by a school administrator other than the principal.

4. The provisions of KRS 161.760 shall not apply to any transfer made in order to comply with the provisions of this paragraph.

(3) No superintendent shall employ in any position in the district any person who is a violent offender or has been convicted of a sex crime as defined by KRS 17.165 which is classified as a felony. The superintendent may employ, at his discretion, persons convicted of sex crimes classified as a misdemeanor.

(4) (a) Beginning January 1, 1999, a superintendent shall require a national and state criminal background check on all new certified hires in the school district. Excluded are certified individuals who were employed in another certified position in a Kentucky school district within six (6) months of the date of hire and who had previously submitted to a national and state criminal background check for the previous employment.

(b) The superintendent shall require that each new certified hire, as set forth in paragraph (a) of this subsection, submit to a national and state criminal history background check by the Kentucky State Police and the Federal Bureau of Investigation.

(c) All fingerprints requested under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The fingerprint cards shall be forwarded to the Federal Bureau of Investigation from the Kentucky State Police after a state criminal background check is conducted. The results of the state and federal criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police and the Federal Bureau of Investigation shall be an amount no greater than the actual cost of processing the request and conducting the search. ***The Kentucky State Police shall establish a direct billing procedure for Federal Bureau of Investigation and state police criminal background checks.***

(d) The Education Professional Standards Board may promulgate administrative regulations to impose additional qualifications to meet the requirements of Public Law 92-544.

(5) A superintendent shall require a state criminal background check on all classified initial hires.

(a) The superintendent shall require that each classified initial hire submit to a state criminal history background check by the Kentucky State Police.

(b) Any request for records under this section shall be on an applicant fingerprint card provided by Kentucky State Police. The results of the state criminal background check shall be sent to the hiring superintendent. Any fee charged by the Kentucky State Police shall be an amount no greater than the actual cost of processing the request and conducting the search.

(6) (a) ~~[If a school term has begun and a certified or classified position remains unfilled or if a vacancy occurs during a school term,]~~ A superintendent may employ an individual, who will have supervisory or disciplinary authority over minors, on probationary status pending receipt of the criminal history background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

(b) Employment shall be contingent on the receipt of the criminal history background check documenting that the probationary employee has no record of a sex crime nor as a violent offender as defined in KRS 17.165.

(c) Notwithstanding KRS 161.720 to 161.800 or any other statute to the contrary, probationary employment under this section shall terminate on receipt by the school district of a criminal history background check documenting a record of a sex crime or as a violent offender as defined in KRS 17.165 and no further procedures shall be required.

(d) The provisions of KRS 161.790 shall apply to terminate employment of a certified employee on the basis of a criminal record other than a record of a sex crime or as a violent offender as defined in KRS 17.165.

(7) (a) Each application or renewal form, provided by the employer to an applicant for a classified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(b) Each application or renewal form, provided by the employer to an applicant for a certified position, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A NATIONAL AND STATE CRIMINAL HISTORY BACKGROUND CHECK AS A CONDITION OF EMPLOYMENT."

(8) The provisions of subsections (4), (5), (6), and (7) of this section shall apply to a nonfaculty coach or nonfaculty assistant as defined under KRS 161.185.

Section 23. KRS 161.010 is amended to read as follows:

As used in KRS 161.020 to 161.120 ***and Sections 5 and 16 of this Act***:

(1) ***"Administrator" means a person for whom a certificate is required as a basis of employment in the public schools and***

who devotes the majority of his or her work time as a superintendent, deputy superintendent, assistant superintendent, associate superintendent, principal, assistant principal, supervisor of instruction, pupil personnel director, director of special education, vocational education administrator, counselor, or any other administrative position in the public schools whose job description requires an administrative credential as prescribed by the administrative regulations of the Education Professional Standards Board.

(2) "Certificate" means a document issued by the Education Professional Standards Board that authorizes a person to be a teacher or an administrator.

(3) "Certified" means possession of a credential that is required by the laws of the state as a condition of employment.

(4) "Certified school employee" means an employee of a local school district who is required to have certification for his or her position as provided by Section 24 of this Act.

(5) "Continuing education" means study or other activities to provide professional improvement and personal growth for certified teachers throughout their career. It may include, but shall not be limited to, university courses, an advanced degree, or a combination of university courses, field-based experience, individual research, and approved professional development activities, pursuant to KRS ***156.095***[~~161.095~~].

(6)[~~(2)~~]"[~~Standard~~]College or university" means an institution accredited by the Southern Association of Colleges and Schools or by one of the other recognized regional accrediting agencies or by the ***Education Professional Standards Board***[~~Kentucky Department of Education~~].

(7)[~~(3)~~]"[~~Standard~~]College or university work of graduate grade" means academic preparation which extends beyond the usual four (4) year program of undergraduate studies leading to a bachelor's degree and which is completed at a[~~ standard~~] college or university accredited for the graduate level.

(8)[~~(4)~~]"Student teacher" means an adult who has completed the prerequisite teacher preparation as prescribed by the accredited teacher education institution in which he ***or she*** is enrolled, and who is jointly assigned by the institution and a local school district to engage in a period of practice teaching under the direction and supervision of the administrative and teaching staff of the school district and the institution.

(9)[~~(5)~~]"Teacher's aide" means an adult school employee who works under the direction of the professional administrative and teaching staff in performing, within the limitations of his ***or her*** training and competency, certain instructional and noninstructional functions in the school program including, but not limited to, clerical duties, tutoring individual pupils, leading pupils in recreational activities, conducting pupils from place to place, assisting with classroom instruction as directed by the teacher, aiding the school librarian, and preparing and organizing instructional materials and equipment.

Section 24. KRS 161.020 is amended to read as follows:

(1) No person shall be eligible to hold the position of superintendent, principal, teacher, supervisor, director of pupil personnel, or other public school position for which certificates may be issued, or receive salary for services rendered in ***the***[~~such~~] position, unless he ***or she*** holds a certificate of legal qualifications for ***the***[~~such~~] position***, issued by the Kentucky Education Professional Standards Board***.

(2) No person shall enter upon the duties of a position requiring certification qualifications until his ***or her*** certificate has been filed or credentials registered with the local district ***employer***[~~employing him~~].

(3) The validity and terms for the renewal of any certificate shall be determined by the laws and regulations in effect at the time the certificate was issued.

Section 25. KRS 161.028 is amended to read as follows:

[~~(1)~~]The Education Professional Standards Board has the authority and responsibility to:

(1)[~~(a)~~]Establish standards and requirements for obtaining and maintaining a teaching certificate;

(2)[~~(b)~~]Set standards for, approve, and evaluate college, university, and school district programs for the preparation of teachers and other professional school personnel***. Program standards shall reflect national standards and shall address, at a minimum, the following:***

(a) The alignment of programs with the state's core content for assessment as defined in KRS 158.6457;

(b) Research-based classroom practices, including effective classroom management techniques;

(c) Emphasis on subject matter competency of teacher education students;

(d) Methodologies to meet diverse educational needs of all students;

(e) The consistency and quality of classroom and field experiences, including early practicums and student teaching experiences;

(f) The amount of college-wide or university-wide involvement and support during the preparation as well as the induction of new teachers;

(g) The diversity of faculty;

(h) The effectiveness of partnerships with local school districts; and

(i) The performance of graduates on various measures as determined by the board.

(3)[~~(c)~~]***Conduct an annual review of diversity in teacher preparation programs, require a plan of action to increase diversity, and take corrective actions as deemed appropriate for chronic noncompliance to the plan;***

(4) Provide assistance to universities and colleges in addressing diversity, which may include researching successful strategies and disseminating the information, encouraging the development of nontraditional avenues of recruitment and providing incentives, waiving administrative regulations when needed, and other assistance as deemed necessary;

(5) Discontinue approval of programs that do not meet standards or whose graduates do not perform according to criteria set by the board;

(6)[~~(c)~~]Issue, renew, revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of actions regarding any certificate;

(7)[~~(d)~~]Develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by an employee certified by the Education Professional Standards Board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if an employee is falsely accused;

(8)[~~(e)~~]Receive, along with investigators hired by the Education Professional Standards Board, training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedures in sex offense cases, and effective intervention with victims and offenders;

(9)[~~(f)~~] ***Determine the essential data elements relating to teacher preparation and certification, teacher supply and demand, teacher attrition, teacher diversity, and employment trends to be included in a state comprehensive data and information system;***

(10) [~~Maintain data and~~]Submit reports to the Governor and the Legislative Research Commission ***and inform the public on the status of teaching in Kentucky***[~~ concerning employment trends, including the number of minority certified employees, and the quality of professional preparation programs~~];

(11)[~~(g)~~] ***Devise a credentialing***[~~Reduce and streamline the credential~~] system ***that provides alternative routes to gaining certification and***[~~to allow~~] greater flexibility in staffing local schools while maintaining standards for teacher competence;

(12)[~~(h)~~] Develop a professional code of ethics;

(13)[~~(i)~~] ***Recruit,*** select***, employ,*** and evaluate the executive ***director***[~~secretary~~] to the board;***approve employment policies, a compensation plan, and procedures for the employment of policy level staff and their assistants***;

(14)[~~(j)~~] Approve the biennial budget request[~~ and advise the commissioner of education on budgetary matters~~];

(15)[~~(k)~~] Charge reasonable fees for the issuance, reissuance, and renewal of certificates that are established by administrative regulation. The proceeds shall be used to meet a portion of the costs of the issuance, reissuance, and renewal of certificates, and the costs associated with revoking certificates;[~~ and~~]

(16)[~~(l)~~] Waive a requirement that may be established in an administrative regulation promulgated by the board. A request for a waiver shall be submitted to the board, in writing by an applicant for certification, a postsecondary institution, or a superintendent of a local school district, with appropriate justification for the waiver. The board may approve the request if the person or institution seeking the waiver has demonstrated extraordinary circumstances justifying the waiver. Any waiver granted under this subsection shall be subject to revocation if the person or institution falsifies information or subsequently fails to meet the intent of the waiver***;***

(17) Solicit the development of one (1) or more innovative, nontraditional teacher preparation programs through public or private colleges or universities, private contractors, or the Kentucky Commonwealth Virtual University and waive administrative regulations if needed in order to implement the program; and

(18) Issue orders as necessary in any administrative action before the board.

[~~(2) (a)The board shall be composed of seventeen (17) members. The chief state school officer and the president of the Council on Postsecondary Education, or their designees, shall serve as ex officio voting members. The Governor shall make the following fifteen (15) appointments:~~

~~1. Nine (9) members who shall be teachers representative of elementary, middle or junior high, secondary, special education, and secondary vocational classrooms;~~

~~2. Two (2) members who shall be school administrators, one (1) of whom shall be a school principal;~~

~~3. One (1) member representative of local boards of education; and~~

~~4. Three (3) members representative of postsecondary institutions, two (2) of whom shall be deans of colleges of education at public universities and one (1) of whom shall be the chief academic officer of an independent not-for-profit college or university.~~

~~(b) A vacancy on the board shall be filled in the same manner as the original appointment within sixty (60) days after it occurs. A member shall continue to serve until his successor is named. Any member who, through change of employment status or residence, or for other reasons, no longer meets the criteria for the position to which he was~~

~~appointed shall no longer be eligible to serve in that position.~~

~~(c) Members of the board shall serve without compensation, but shall be permitted to attend board meetings and perform other board business without loss of income or other benefits.~~

~~(d) A state agency or any political subdivision of the state, including a school district, required to hire a substitute for a member of the board who is absent from his employment while performing board business shall be reimbursed by the board for the actual amount of any costs incurred.~~

~~(e) A chairman shall be elected by and from the membership. A member shall be eligible to serve no more than three (3) one (1) year terms in succession as chairman. The executive secretary shall keep records of proceedings. Regular meetings shall be held at least semiannually on call of the chairman. The Department of Education shall provide staff and support for the board.~~

~~(f) To carry out the functions relating to its duties and responsibilities, the board is empowered to receive donations and grants of funds; to appoint consultants as needed; and to sponsor studies, conduct conferences, and publish information.~~

~~(3) The Education Professional Standards Board shall be the successor to the State Board for Elementary and Secondary Education for purposes of performing the duties authorized in KRS 161.027, 161.028, 161.030, 161.042, 161.044, 161.046, 161.048, 161.049, 161.100, 161.115, 161.120, 161.124, and 161.126. Rules, administrative regulations, and procedures relating to these duties shall not lapse and shall continue in effect until repealed or amended by the Education Professional Standards Board.]~~

Section 26. KRS 161.030 is amended to read as follows:

(1) Notwithstanding the age of the pupil, the certification of all teachers and other school personnel, in public schools only, is vested in the Education Professional Standards Board. When so certified, teachers and other school personnel shall not be required to have licensure, certification, or other forms of approval from any other state agency for the performance of their respective assignments within the common schools, except as provided for by law. All certificates authorized under KRS 161.010 to 161.126 shall be issued in accordance with the administrative regulations of the Education Professional Standards Board. After July 15, 1994, all certificate applications and other data collection instruments of the board shall include a request for voluntary information about the applicant's ethnic background. This information shall be available to help local school districts locate minority candidates. A person who holds a certificate prior to this requirement may request that ethnic information be added to his ***or her*** file. Nothing in this section shall preclude the right of an individual in a nonpublic school from seeking voluntary certification by the Education Professional Standards Board.

(2) Certificates shall be issued upon written application and in accordance with statutes and regulations in effect at the time of application to persons who have completed, at colleges, universities, or local school district programs approved by the Education Professional Standards Board for the preparation of teachers and other school personnel, the curricula prescribed by the administrative regulations of the Education Professional Standards Board.

(3) Certification of all new teachers and teachers seeking additional certification shall require the successful completion of appropriate assessments prior to certification. The assessments shall be selected by the Education Professional Standards Board and shall measure knowledge in the specific teaching field of the applicant, including content of the field and teaching of that content. The Education Professional Standards Board shall determine the minimum acceptable level of achievement on each assessment. The assessments shall measure those concepts, ideas, and facts which are being taught in teacher education programs in Kentucky. Upon successful completion of the assessments and the approved teacher preparation program, a certificate valid for one (1) year shall be issued. If an out-of-state teacher with less than two (2) years experience comes to Kentucky after the deadline for taking the assessments, a temporary certificate may be issued for a period up to six (6) months provided the local board cannot fill the vacant position with a certified teacher. The teacher shall take the assessments if they are administered during the period of the temporary certificate. The certificate shall be extended for the remainder of the year if the teacher successfully completes the assessments. If the teacher fails the assessments, the temporary certificate shall be valid only for the current semester.

(4) A reasonable fee to be paid by the teacher and directly related to the actual cost of the administration of the assessments shall be established by the Education Professional Standards Board. Provisions shall be made for persons having less than minimum levels of performance on any assessment to repeat that assessment, and candidates shall be informed of their strengths and weaknesses in the specific performance areas. The ***Education Professional Standards Board***~~[Department of Education]~~ shall provide for confidentiality of the individual assessment scores. Scores shall be available only to the candidate and to the education officials who are responsible for determining whether established certification standards have been met. Scores shall be used only in the assessment for certification of new teachers and of out-of-state teachers with less than two (2) years of teaching experience who are seeking initial certification in Kentucky.

(5) All new teachers and out-of-state teachers with less than two (2) years of successful teaching experience who are seeking initial certification in Kentucky shall serve a one (1) year internship. The teacher shall be a full-time employee or shall have an annual contract and serve on at least a half-time basis and shall have supervision, assistance, and assessment during the one (1) year internship. The internship may be served in a public school or a nonpublic school which meets the state performance standards as established in KRS 156.160 or which has been accredited by a regional or national

accrediting association. Successful completion shall be determined by a majority vote of the beginning teacher committee. The internship period shall be counted as experience for the purpose of continuing contract status, retirement eligibility, and benefits for single salary experience increments. Upon successful completion of the beginning teacher program, the one (1) year initial teaching certificate shall be extended for the remainder of the usual duration period established for that particular certificate by Education Professional Standards Board administrative regulations.

(6) The beginning teacher committee shall be composed of three (3) persons who have successfully completed special training in the supervision and assessment of the performance of beginning teachers as provided in subsection (8) of this section. The committee shall consist of a resource teacher, the school principal of the school where the internship is served, and a teacher educator appointed by a state-approved teacher training institution.

(a) If more than two (2) teacher interns are employed in the same school, the principal's responsibility may be shared with an assistant principal who holds certification as a principal.

(b) In unusual situations, the Education Professional Standards Board may permit the assistant principal to serve in lieu of the principal on a beginning teacher committee.

(c) If the teacher training institution is unable to provide a member, the district superintendent shall appoint an instructional supervisor from the school district.

(d) If the intern is teaching in a regionally or nationally accredited nonpublic school without a principal, the person filling the principal member position may have other appropriate qualifications as required by administrative regulations promulgated by the Education Professional Standards Board.

(e) If the teacher training institution is unable to provide a member to serve on the beginning teacher committee in a nonpublic school, the chief officer of the school shall appoint an instructional supervisor or a teacher with like qualifications and responsibilities to serve on the beginning teacher committee in lieu of the teacher educator.

(f) The resource teacher shall be appointed by the ***Education Professional Standards Board with recommendations from the local school district***~~[Department of Education]~~ from a pool of qualified resource teachers, and, any statutes to the contrary notwithstanding and to the extent of available appropriations, shall be entitled to be paid a reasonable stipend by the ***Education Professional Standards Board***~~[Department of Education]~~ for work done outside normal working hours. In the case of a resource teacher in a nonpublic school, payment shall be made directly to the resource teacher by the ***Education Professional Standards Board***~~[Department of Education]~~. Priority shall be given to resource teachers in the following order:

1. Teachers with the same certification in the same school;
2. Teachers with the same certification in the same district;
3. ***Retired teachers with the same certification;***

4. Teachers in the same school;

5.~~[4.]~~ Teachers in the same district; and

6.~~[5.]~~ Teachers in an adjacent school district.

(g) The committee shall meet with the beginning teacher a minimum of three (3) times per year for evaluation and recommendation with all committee members present. In addition, each member of the committee shall observe the beginning teacher in the classroom a minimum of three (3) times per year. If the teacher's first year performance is judged by the committee to be less than satisfactory, the teacher shall be provided with an opportunity to repeat the internship one (1) time if the teacher is employed by a school district.

(7) The resource teacher shall spend a minimum of seventy (70) hours working with the beginning teacher; twenty (20) of these hours shall be in the classroom setting; fifty (50) of these hours shall be in consultation other than class time or attending assessment meetings. The resource teacher shall have completed at least four (4) years of successful teaching experience as attested to by his or her immediate supervisor or by having achieved tenure and be able to show evidence of continuing professional development by having achieved a master's degree or its equivalent or the accumulation of two thousand (2,000) hours of continuing professional activities.

(8) By contract with teacher education institutions in the Commonwealth, the ***Education Professional Standards Board***~~[chief state school officer]~~ shall provide special training for persons who will be serving on the beginning teacher committees. Completion of special training shall be evidenced by successfully passing the assessments as prescribed by the Education Professional Standards Board. A principal hired after July 15, 1996, shall be required to complete the beginning teacher committee training program within one (1) year after his ***or her*** appointment.

(9) If an applicant establishes eligibility for a one (1) year certificate under the provisions of subsection (3) of this section, but does not become employed on the basis needed to satisfy the one (1) year internship requirement, the applicant shall be eligible for the issuance of a certificate for substitute teaching as provided by the administrative regulations of the Education Professional Standards Board. The applicant shall remain eligible for the one (1) year certificate, as provided in subsection (3) of this section, and for the opportunity to serve the internship for a period of five (5) years after establishing eligibility. If the internship is not completed within the five (5) year period, the applicant must reestablish eligibility by

repeating and passing the assessment program in effect for new teachers at that time or by completing a minimum of six (6) graduate hours toward completion of a graduate program required by administrative regulations promulgated by the Education Professional Standards Board.~~[The option for renewal through completion of graduate hours shall be available only for the first reestablishment of eligibility.]~~

(10) The Education Professional Standards Board shall approve the curricula of any~~[standard]~~ college or university, or of any department thereof, for the training of teachers, ***and of any nontraditional or alternative teacher preparation program offered in a public or private postsecondary education institution,*** and shall also approve the curricula of any local district alternative certification program, when the curricula comply with the administrative regulations of the Education Professional Standards Board for the issuance of certificates and when the institution has met the terms and conditions provided in KRS 161.010 to 161.120. Any student who has completed any of these curricula, as approved by the Education Professional Standards Board, and who has completed the prescribed requirements for the issuance of certificates shall be granted a certificate corresponding to the curricula completed.

Section 27. KRS 161.042 is amended to read as follows:

(1) The ***Education Professional Standards Board***~~[Kentucky Board of Education]~~ shall provide through administrative regulation for the utilization of the common schools for the preparation of teacher education students from the colleges and universities.

(2) Within the provisions established by the ***Education Professional Standards Board***~~[Kentucky Board of Education]~~, local boards of education are authorized to enter into cooperative agreements, including financial arrangements, with colleges and universities for the purpose of providing professional laboratory experiences and student teaching experiences for students preparing for the education profession.

(3) ***The Education Professional Standards Board shall promulgate administrative regulations defining the professional requirements and general duties of*** a supervising teacher ***and requirements for a local school district and school to be used for this purpose***~~[shall have professional competencies as set out in administrative regulations promulgated by the Education Professional Standards Board. If obtainment of a degree above the baccalaureate level is required of supervising teachers, the Education Professional Standards Board shall waive the requirement for teachers who have at least twenty (20) years of teaching experience and who have worked as a supervising teacher during the past five (5) years]~~.

(4) A student teacher who is jointly assigned under agreement by a teacher education institution and a local board of education shall have the same legal status and protection as a ***certified***~~[certificated]~~ teacher employed within the school district and shall be responsible to the administrative staff of the school district and the supervising teacher to whom he ***or she*** is assigned.

(5) Teacher education students, other than student teachers, may be permitted through cooperative agreements between the local school district and the teacher education institution, to engage in supplementary instructional activities with pupils under the direction and supervision of the professional administrative and teaching staff of the school district.

Section 28. KRS 161.048 is amended to read as follows:

(1) The General Assembly hereby finds that:

(a) 1. There are persons who have distinguished themselves through a variety of work and educational experiences that could enrich teaching in Kentucky schools;

2. There are distinguished scholars who wish to become teachers in Kentucky's public schools, but who did not pursue a teacher preparation program;

3. There are persons who need to be recruited to teach in Kentucky schools to meet the diverse cultural and educational needs of students; and

4. There should be alternative procedures to the traditional teacher preparation programs that qualify persons as teachers.

(b) There are hereby established alternative certification program options as described in subsections ***(2) to***~~[(3) through]~~ (5) of this section.

(c) It is the intent of the General Assembly that the Educational Professional Standards Board inform scholars, persons with exceptional work experience, and persons with diverse backgrounds who have potential as teachers ***and administrators*** of these options and assist local boards of education in implementing these options and recruitment of individuals who can enhance the education system in Kentucky.

(d) The Education Professional Standards Board shall promulgate administrative regulations establishing standards and procedures for the alternative certification options described in this section.

(2) ***Certification alternatives for teachers:***

(a) Option 1: Certification of a person with exceptional work experience. An individual who has exceptional work experience and has been offered employment at the ***middle school or*** secondary ***school*** level in a local school district shall receive a one (1) year provisional teaching certificate with approval by the Education Professional Standards Board of a joint application by the individual and the employing school district under the following conditions:

1.[~~(a)~~] The application contains documentation of all education and work experience;

2.[~~(b)~~] The candidate has documented ten (10) years of exceptional work experience in the area in which certification is being sought;

3.[~~(c)~~] The candidate possesses a bachelor's degree, with a grade point average of two and five-tenths (2.5) on a four *(4.0)*[~~(4)~~] point scale ***or a master's degree or above with a cumulative grade point average of a three (3.0) on a four (4.0) point scale on all graduate level course work*** from a nationally or regionally accredited postsecondary institution; and

4.[~~(d)~~] The candidate shall participate in the teacher internship program under subsections (5), (6), (7), and (8) of ***Section 26 of this Act***[~~KRS 161.030~~]. After successful completion of the internship, the candidate shall receive a regular ***professional***[~~provisional~~] certificate.

[~~An individual employed under this alternative shall be certified for one (1) year only, and may be approved for subsequent one (1) year renewals upon request of the local board of education and approval of the Education Professional Standards Board. A teacher who successfully completes three (3) contract years under the provisions of this section shall be awarded a regular provisional~~]***The professional*** certificate ***shall be***[~~, and~~] subject to certificate renewal requirements the same as any other teacher with a regular ***professional***[~~provisional~~] certificate.

(b)[~~(3)~~]Option 2: Certification through a local district training program. A local district or group of districts may seek approval for a training program. The state-approved local district training program is an alternative to the college teacher preparation program as a means of acquiring teacher certification for a teacher at any grade level. The training program may be offered for all teaching certificates approved by Education Professional Standards Board, including interdisciplinary early childhood education, except for specific certificates for teachers of exceptional children. To participate in a state-approved local district alternative training program, the candidate shall:

1.[~~(a)~~] Possess a bachelor's degree with a grade point average of two and five tenths (2.5) on a four *(4.0)*[~~(4)~~] point scale or ***a master's degree or above with a cumulative grade point average of three (3.0) on a four (4.0) point scale on all graduate level course work.***[~~, upon approval by~~] the Education Professional Standards Board ***may approve a candidate who has***[~~,~~] at least a grade point average of two *(2.0)*[~~(2)~~] on a four *(4.0)*[~~(4)~~] point scale if the candidate has exceptional life experience related to teaching and has completed the bachelor's degree at least five (5) years prior to submitting an application to the program.

2.[~~(b)~~] Pass written tests designated by the Education Professional Standards Board for content knowledge in the specific teaching field of the applicant with minimum scores in each test as set by the Education Professional Standards Board. To be eligible to take a subject field test, the applicant shall have completed a thirty (30) hour major in the subject field or five (5) years of experience in the subject field as approved by the Education Professional Standards Board.

3.[~~(c)~~] Have been offered employment in a school district which has a training program approved by the Education Professional Standards Board.

4.[~~(d)~~] Upon meeting the participation requirements as established in this subsection, the candidate shall be issued a one (1) year provisional certificate by the Education Professional Standards Board. The regular provisional certificate shall be issued upon satisfactory completion of the program and the teacher testing internship program pursuant to ***Section 26 of this Act***[~~KRS 161.030~~].

5.[~~(e)~~] The Education Professional Standards Board may reject the application of any candidate who is judged as not meeting academic requirements comparable to those for students enrolled in Kentucky teacher preparation programs.

(c)[~~(4)~~]Option 3: Certification of a professional from a postsecondary institution: A candidate who possesses the following qualifications may receive alternative certification for teaching at the secondary level:

1.[~~(a)~~] A master's degree or doctoral degree in the academic subject area for which certification is sought;

2.[~~(b)~~] A minimum of five (5) years of full-time teaching experience, or its equivalent, in the academic subject area for which certification is sought in a regionally or nationally accredited institution of higher education; and

3.[~~(c)~~] Successful completion of the teacher internship requirement imposed under ***Section 26 of this Act***[~~KRS 161.030~~].

(d)[~~(5)~~]Option 4: Certification of an adjunct instructor. A person who has expertise in areas such as art, music, foreign language, drama, science, and other specialty areas may be employed as an adjunct instructor in a part-time position by a local board of education under KRS 161.046.

(3) Certification alternatives for administrators:

(a) Option 1: Certification through a local district training program. A local school district or group of districts may seek approval from the Education Professional Standards Board for an alternative principal or

superintendent training program. The state-approved local district training program shall be an alternative to the traditional postsecondary preparation program. A primary component of the training program shall be employment as an assistant principal or assistant superintendent under a temporary certificate issued by the Education Professional Standards Board.

1. The board shall promulgate an administrative regulation establishing the standards for approval of a local district training program, including but not limited to:

a. Academic criteria comparable to the requirements for admission to an approved postsecondary education administration preparation program;

b. Recommendations supporting leadership potential;

c. Successful completion of assessments required under KRS 161.027;

d. Criteria for placement with a supervising principal or superintendent;

e. Requirements of regular guidance and evaluation by a support team;

f. Additional professional development to address a candidate's specific needs; and

g. Evidence of joint sponsorship with a college or university.

2. A principal candidate who successfully completes the local district training program shall complete the internship program under KRS 161.027, and a superintendent candidate shall complete the requirements in Section 17 of this Act.

(b) Option 2: Certification of a person with exceptional work experience for superintendent. An individual with exceptional leadership experience may submit an application for certification as a superintendent. This application shall contain:

1. Documentation of at least five (5) years of exceptional full-time leadership experience as demonstrated by superior performance of his or her duties and evidence of superior knowledge and skills when compared against generally accepted standards for superintendent certification;

2. Official transcripts detailing at least an earned master's or professional degree beyond the bachelor's with a cumulative grade point average of three (3.0) on a four (4.0) scale for all graduate level course work;

3. Evidence that the candidate has successfully completed the principal assessments required in KRS 161.027; and

4. A portfolio demonstrating how the candidate's leadership experience is commensurate with the job demands of the superintendency.

Upon review of the application the board shall issue a statement of eligibility valid for five (5) years to a successful candidate. Upon employment in a local district as a superintendent, deputy superintendent, assistant superintendent, or associate superintendent, a one (1) year provisional certificate shall be issued. Upon successfully completion of the superintendent's training and testing program and assessment program required under Section 17 of this Act, a professional superintendent certificate will be awarded.

(c) Option 3: Certification of a person with exceptional leadership experience for principal. An individual with exceptional leadership experience may submit an application for certification as a principal to the Education Professional Standards Board. This application shall contain:

1. Documentation of at least three (3) years' exceptional leadership experience as demonstrated by superior performance of his or her duties and evidence of superior knowledge and skills when compared against generally accepted standards for principal certification;

2. Official transcripts detailing at least an earned master's degree or professional degree beyond the bachelor's with a cumulative grade point average of three (3.0) on a four (4.0) scale for all graduate level course work;

3. Evidence that the candidate has successfully completed the principal assessments required in KRS 161.027; and

4. A portfolio demonstrating how the candidate's leadership experience is commensurate with the demands of a principalship.

Upon review of the application, the Education Professional Standards Board shall issue successful candidates a statement of eligibility valid for five (5) years. Upon employment in a local school district as a principal or assistant principal, a one (1) year provisional certificate shall be issued. The candidate shall successfully complete the principal internship program under KRS 161.027 to receive a professional principal certificate.

(4) An accredited postsecondary education institution may seek approval from the Education Professional Standards Board for an alternative training program for teachers, principals, or superintendents under administrative

regulations promulgated by the Education Professional Standards Board for alternative certification programs.

(5) A local school district or group of districts, the Department of Education, and an accredited postsecondary education institution may seek approval from the Education Professional Standards Board for an alternative principal or superintendent training program under this section.

(6) A teacher certified under ***subsection***[~~subsections~~] (2)[~~ to (5)~~] of this section shall be placed on the local district salary schedule for the rank corresponding to the degree held by the teacher.

(7) Subsections (1) ***and (2)***[~~to (3)~~] of this section notwithstanding, a candidate who possesses the following qualifications may receive certification for teaching programs for exceptional students:

(a) An out-of-state license to teach exceptional students;

(b) A bachelor's or master's degree in the certification area or closely related area for which certification is sought; and

(c) Successful completion of the teacher internship requirement required under ***Subsections (5), (6), (7), and (8) of Section 26 of this Act***[~~KRS 161.030~~].

Section 29. KRS 161.049 is amended to read as follows:

(1) As used in this section, "professional support team" means a school principal, an experienced teacher, a college or university faculty member, and an instructional supervisor. If an instructional supervisor or college or university faculty member is not available, the district shall assign a member with comparable experience. The school principal shall serve as the chairman of the team.

(2) The Education Professional Standards Board shall establish a training program for professional support teams which shall be implemented by the ***board or contracted with another agency***[~~Department of Education~~]. The training shall include content and procedures for the evaluation of teacher candidates. Completion of the training shall be evidenced by successfully passing the examinations prescribed by the board.

(3) A local school district seeking to hire a teacher pursuant to ***subsection (2)(b) of Section 28 of this Act***[~~KRS 161.048(3)~~] shall submit a plan for a local district alternative training program to the ***Education Professional Standards Board***[~~Department of Education~~] and have it approved in accordance with administrative regulations established by the[~~ Education Professional Standards~~] Board. The district shall show evidence that it has sought joint sponsorship of the program with a college or university. No local school district shall employ a teacher seeking certification in a state-approved local district training program unless it has submitted a plan and received approval by the Education Professional Standards Board.

(4) Each state approved local district alternative training program shall provide the teacher candidate with essential knowledge and skills and include, but not be limited to, the following components:

(a) A full-time seminar and practicum of no less than eight (8) weeks' duration prior to the time the candidate assumes responsibility for a classroom. The content of the formal instruction shall be prescribed by the Education Professional Standards Board and shall include an introduction to basic teaching skills through supervised teaching experiences with students, as well as an orientation on the policies, organization, and curriculum of the employing district.

(b) A period of classroom supervision while the candidate assumes responsibility on a one-half (1/2) time basis for a classroom and continuing for eighteen (18) weeks. During this period, the candidate shall be visited and critiqued no less than one (1) time per week by one (1) or more members of a professional support team appointed by the local district and assigned according to the administrative regulations adopted by the Education Professional Standards Board. The candidate shall be formally evaluated at the end of five (5) weeks, at the end of the second five (5) weeks, and at the end of the last eight (8) weeks by the members of the team. During this period, the candidate shall continue formal instruction which emphasizes student assessment, child development, learning, curriculum, instruction of exceptional children, and school and classroom organization.

(c) An additional period of at least eighteen (18) weeks continued supervision of the teacher candidate who may be assigned full-time classroom duties. During this period the teacher candidate shall be critiqued at least once per month and shall be observed formally and evaluated at least twice. No more than two (2) months shall pass without a formal observation. Formal instruction shall also continue during this period. In addition, opportunities shall be provided for the teacher candidate to observe the teaching of experienced teachers.

(5) At least two hundred fifty (250) hours of formal instruction shall be provided in all three (3) phases of the program combined.

(6) At the conclusion of the alternative training program, the chair of the support team shall prepare a comprehensive evaluation report on the teacher candidate's performance. This report shall be submitted to the Education Professional Standards Board and shall contain a recommendation as to whether the teacher candidate shall be issued a one (1) year certificate of eligibility to complete the internship pursuant to ***Section 26 of this Act***[~~KRS 161.030~~]. The support team shall make one (1) of the following recommendations:

(a) Approved: recommends issuance of certificate to complete the internship;

(b) Insufficient: recommends the candidate be allowed to seek reentry into a teacher preparation program; or

(c) Disapproved: recommends the candidate not be allowed to enter a teacher preparation program.

Section 30. KRS 161.100 is amended to read as follows:

When a district board of education satisfies the Education Professional Standards Board that it is impossible to secure qualified teachers for a position in a school under the control of the district board, the Education Professional Standards Board may issue emergency certificates to persons who meet the qualifications determined by the Education Professional Standards Board for emergency certificates. An emergency certificate shall be valid only for the specific job for which issued and for the current school term. The Education Professional Standards Board may require the passing of a written examination before an emergency certificate is issued. The examination shall be prepared and administered and the papers graded in the ***offices of the Education Professional Standards Board***~~[state Department of Education]~~ under the direction of the ***executive director***~~[board's staff chief state school officer]~~, in accordance with administrative regulations approved by the Education Professional Standards Board.

Section 31. KRS 161.126 is amended to read as follows:

(1) The "designated state official" for this state shall be the ***executive director of the Education Professional Standards Board***~~[chief state school officer]~~. The ***executive director***~~[chief state school officer]~~ shall enter into contracts pursuant to Article III of the agreement only with the approval of the specific text by the Education Professional Standards Board.

(2) True copies of all contracts made on behalf of this state pursuant to the agreement shall be kept on file in the office of the ***Education Professional Standards Board***~~[chief state school officer]~~ and in the office of the Secretary of State. The ***executive director of the board***~~[chief state school officer]~~ shall publish all contracts in convenient form.

Section 32. KRS 161.157 is amended to read as follows:

An employee of the Department of Education ***or the Education Professional Standards Board*** who transfers to become an employee of the local school district shall be allowed credit for accrued sick leave up to the maximum allowed for transfers for teachers between school districts as provided by KRS 161.155(3) and shall be allowed credit for each full year of employment with the Department of Education for the determination of pay under the school districts' single salary schedule.

Section 33. KRS 161.165 is amended to read as follows:

(1) The ***Kentucky Department of Education, in cooperation with the*** Education Professional Standards Board,~~[in cooperation with]~~ the Kentucky Board of Education, ***local school districts, universities and colleges,*** and the Council on Postsecondary Education, shall ***review and revise the***~~[develop a coordinated,]~~ strategic plan for increasing the number of minority teachers ***and administrators*** in the Commonwealth. The plan shall include ***the collection and analysis of school census data and***~~[, but not be limited to,]~~ recommendations on ways to:

(a) Identify methods for increasing the percentage of minority educators in proportion to the number of minority students;

(b) Establish programs to identify, recruit, and prepare as teachers minority persons who have already earned college degrees in other job fields;

(c) Create ***strategies to develop*** awareness among ***superintendents, principals, school-based decision making councils, and*** secondary school guidance counselors of the need for minority teachers ***and administrators;***

(d) Develop programs or courses for middle school and high school students to encourage talented students to consider teaching as a career;

(e) Create incentives for students to enter teacher preparation programs;

(f) Create incentives for schools and school districts that reach diversity goals; and

(g) Give technical assistance to local school personnel for strategies for minority recruitment to be included in the general recruitment and employment programs required under Section 4 of this Act.

(2) ***The Education Professional Standards Board shall hold teacher preparation programs to high standards for recruiting and retaining a diverse staff and a pool of teacher preparation candidates***~~[Upon completion of the plan, the Education Professional Standards Board shall promulgate administrative regulations to establish pilot programs that increase the percentage of minorities who enter and successfully complete a four (4) year teacher preparation program and provide support to minority students in meeting qualifying requirements for students entering a teacher preparation program at institutions of higher education]~~.

(3) The Education Professional Standards Board ***and the Kentucky Department of Education*** shall periodically submit a report to the Interim Joint Committee on Education that evaluates the results of these efforts and includes accompanying recommendations to establish a continuing program for increasing the number of minorities in teacher education.

Section 34. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the ***commissioner of education***[~~chief state school officer~~], deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly***, including the Education Professional Standards Board***, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620***;***[~~.~~]

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year; and

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis.

Section 35. For purposes of Sections 35 to 44, of this Act, "former Education Professional Standards Board" means the board that was created in 1990 by the General Assembly and authorized in KRS 161.028, which is amended in Section 25 of this Act; and "new Education Professional Standards Board" means the board created by Section 5 of this Act and authorized on the effective date of this Act. The term "acting executive director" may be used interchangeably with the term "executive director."

Section 36. The terms of the members of the former Education Professional Standards Board shall terminate as of the effective date of this Act, but the members of the former board shall continue to serve until the members of the new Education Professional Standards Board created in Section 5 of this Act are appointed by the Governor. Persons serving on the former Education Professional Standards Board as of the effective date of this Act may be appointed to the board established in Section 5 of this Act and may serve two (2) additional full consecutive terms.

Section 37. The executive secretary of the former board at the effective date of this Act shall become the acting executive director of the new board. The acting executive director shall provide the leadership and guidance to effect an orderly transition of board matters from the former board to the new board.

(1) No later than (60) days after the first meeting of the Education Professional Standards Board, the board shall extend a contract to the acting executive director or inform the acting executive director of the board's intention to open a search.

(2) The executive director shall recommend to the board the staffing positions and organizational structure, and the personnel policies necessary to carry out the responsibilities of the board. Upon approval of the organizational structure by the board, the executive director shall appoint staff to fill the positions.

(3) Between the effective date of this Act and the official transfer of employees from the Office of Teacher Preparation and Certification, Kentucky Department of Education, to the employment of the new board, the employees within the office shall report to the acting executive director of the new board. The acting executive director shall have all approval authority over personnel actions for employees in the office. It is the intent of the General Assembly that the commissioner of education and the Department of Education and other agencies of state government work together to facilitate an orderly transition.

 (a) Effective August 1, 2000, employees with merit status under the KRS Chapter 18A personnel system shall be transferred to the employment of the Education Professional Standards Board and shall retain their status in the KRS Chapter 18A personnel system.

 (b) Effective August 1, 2000, unclassified employees in the KRS Chapter 18A personnel system who are employed in the Office of Teacher Education and Certification may be transferred to the new board, pending approval by the executive director. If the executive director does not approve a transfer, the unclassified employee shall be terminated under the rules of KRS Chapter 18A that apply to unclassified staff. Transferred employees shall transfer all accumulated annual leave, compensatory time, and sick leave.

 (c) Effective August 1, 2000, unclassified employees who are employed in the Office of Teacher Education and Certification under a memorandum of agreement or a contract with another educational agency may be transferred to the new board, pending approval by the executive director. If the executive director does not approve a transfer, the unclassified employee shall be terminated under the rules of his or her existing contract. Transferred employees shall transfer all accumulated annual leave, compensatory time, and sick leave.

 (d) Employees transferred to the board under paragraphs (a) to (c) of this subsection shall participate in the same retirement system they were in at the time of the transfer.

 (e) The amendment to KRS 12.020 in Section 12 of this Act and to KRS 12.023 in Section 13 that moves the Education Professional Standards Board to another organizational structure and the amendment to KRS 18A.115 in Section 14 of this Act that exempts some employees from the KRS Chapter 18A personnel system are not effective until August 1, 2000.

 (f) The Education Professional Standards Board may employ policy staff anytime after the board has adopted its policies, compensation plan, and procedures as required under subsection (13) of Section 25 of this Act.

Section 38. All equipment, records, resources, and other materials of the former Education Professional Standards Board and the Office of Teacher Preparation and Certification, Kentucky Department of Education, shall be transferred to the new Education Professional Standards Board at an appropriate date, which shall be established by the state budget director in cooperation with the commissioner of education, the executive director of the board, and other appropriate state agencies, but not later than August 1, 2000.

Section 39. The Governor's Office of Policy and Management, with approval of the state budget director, shall make any necessary adjustments in the allocations and appropriations to the Kentucky Department of Education and transfer the funds to the

Education Professional Standards Board as appropriate and consistent with the transition of programs, employees, and funding requirements necessitated by this Act.

Section 40. By January 1, 2001, the Education Professional Standards Board, in collaboration with teacher preparation institutions, shall review the current practices related to preparation of student teachers in all private and public teacher preparation institutions and determine minimum criteria that all approved institutions shall meet for student teaching and early field experiences for prospective teachers. The review shall include a review of the initial selection process of student teaching sites as well as the supervising teachers, the training provided to supervising teachers, compensation for supervising teachers, ongoing evaluation of student teaching sites and the quality of the supervising experiences, support provided to the supervising teacher from the college or university, and other related issues. If needed, the current administrative regulations relating to student teaching and early field experiences shall be amended for implementation no later than August, 2001.

Section 41. During the 2000-2002 biennium, the Education Professional Standards Board shall collect and examine the data relating to number of teachers who complete their Rank I and Rank II in a teaching content area, education administration, or other programs. The study shall review the motivation for taking leadership course work, including the advancement in rank, preparation for school-based or district-wide leadership or counseling, lack of access to academic content courses, and supply and demand issues. The board shall report its findings to the Interim Joint Committee on Education by July 31, 2001.

Section 42. The Education Professional Standards Board shall contract for a third-party comprehensive review of the current statutory requirements of the internship program for new teachers, the strengths and weaknesses, and the desirability as well as feasibility of providing a second year of formal mentoring and support for each teacher who has successfully completed the initial internship requirements to ensure continued growth of the new teacher. The board shall make a report with recommendations relating to program design and funding to the Interim Joint Committee on Education prior to the 2002 Regular Session of the General Assembly.

Section 43. The Education Professional Standards Board shall consider options for monetary and time incentives as well as unique program designs that can increase the number of qualified candidates for the school principalship but shall also require recommendations for admission into the program. The board shall present a detailed proposal for consideration by the Regular Session of the 2002 General Assembly.

Section 44. Whereas it is critical that specific personnel and board appointments be made as quickly as possible to allow for an orderly transition of the Education Professional Standards Board from one governance structure to another, and whereas there are several operating and programmatic changes required by this Act, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

HB 623, AN ACT relating to certified school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.120 is amended to read as follows:

(1) Except as described in KRS 161.795, the Education Professional Standards Board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, substitute teachers, interns, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees for the following reasons:

(a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:

1. A felony;
2. A misdemeanor under KRS Chapter ***218A,*** 508, 509, 510, 522, 525, 529, 530, or 531; or
3. A misdemeanor involving a student or minor.

A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;

(b) Having sexual contact as defined in KRS 510.010(7) with a student or minor. Conviction in a criminal proceeding shall not be a requirement for disciplinary action;

(c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;

(d) Demonstrating willful or careless disregard for the health, welfare, or safety of others;

(e) Physical or mental incapacity that prevents the certificate holder from performing duties with reasonable skill, competence, or safety;

(f) Possessing, using, or being under the influence of alcohol, which impairs the performance of duties;

(g) Unlawfully possessing or unlawfully using a drug during the performance of duties;

(h) Incompetency or neglect of duty;

(i) Making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining issuance or renewal of any certificate;

(j) Failing to report as required by subsection ***(2)***[~~(3)~~] of this section;

(k) Failing to comply with an order of the Education Professional Standards Board;

(l) Violating any state statute relating to schools or the teaching profession;

(m) Violating ***the professional code of ethics for Kentucky school certified personnel established by the Education Professional Standards Board through the promulgation of administrative regulation;***

(n) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or

(o)[~~(n)~~]Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection

(2)[~~If an alleged violation is not of a serious nature and the evidence presented to the Education Professional Standards Board, after an appropriate opportunity for the certificate holder to respond, provides clear indication that the alleged conduct did in fact occur, the board may issue a written admonishment to the certificate holder. The certificate holder shall have the right to file a written response within thirty (30) days of the date of the admonishment and to have the response attached to the admonishment. Alternatively, the certificate holder may file a request for a hearing within thirty (30) days of the date of the written admonishment. Upon receipt of a timely request, the board shall set aside the written admonishment and set the matter for a hearing.~~

~~(3)~~] (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, address, phone number, Social Security number, and position name of any certified school employee in the employee's district whose contract is terminated or not renewed, for cause except failure to meet local standards for quality of teaching performance prior to the employee gaining tenure; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who otherwise may have engaged in any actions or conduct while employed in the school district that might reasonably be expected to warrant consideration for action against the certificate under subsection (1) of this section. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, that may warrant action against the certificate under subsection (1) of this section, and shall forward copies of all relevant documents and records in his possession.

(c) The Education Professional Standards Board may consider reports and information received from other sources.

(d) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources. ***The employee***[~~ and~~] shall have the right to file a written rebuttal ***to the report*** which shall be ***placed in the official file with the report***[~~attached to the district superintendent's report~~].

(3)[~~(4)~~]A finding or action by a school superintendent or tribunal does not create a presumption of a violation or lack of a violation of subsection (1) of this section.

(4) The board may issue a written admonishment to the certificate holder if the board determines, based on the evidence, that a violation has occurred that is not of a serious nature. A copy of the written admonishment shall be placed in the official file of the certificate holder. The certificate holder may respond in writing to the admonishment within thirty (30) days of receipt and have that response placed in his official certification file. Alternatively, the certificate holder may file a request for a hearing with the board within thirty (30) days of receipt of the admonishment. Upon receipt of a request for a hearing, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(5) ***(a) The Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B:***

1. Before revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate***;***[~~, the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.~~]

2.[~~(6)~~] After denying an application for a certificate,[~~ or issuing a written admonishment, the Education Professional Standards Board shall set the matter for a hearing~~] upon written request filed within thirty (30) days of ***receipt of*** the letter advising of the denial***; or***[~~, refusal, or admonishment.~~]

3. After issuing a written admonishment, upon written request for a hearing filed within thirty (30) days of receipt of the written admonishment.

(b)[~~(7)~~]Upon request, a hearing may be public or private at the discretion of the certified employee or applicant.

(c)[~~(8)~~]The hearing shall be conducted before the full board, a panel of three (3) members of the board, or a person appointed as hearing officer by the board pursuant to KRS 13B.030(1).

(6)[~~(9)~~]The Education Professional Standards Board or its chair may take emergency action pursuant to KRS 13B.125. Emergency action shall not affect a certificate holder's contract or tenure rights in the school district.

(7)[~~(10)~~] If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student ***or minor***, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student ***or minor*** which are needed as a result of the sexual contact.

(8) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the certificate holder.

(9) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(10) Suspension of a certificate shall be for a specified period of time, not to exceed two (2) years.

(a) At the conclusion of the specified period, upon demonstration of compliance with any educational requirements and the terms set forth in the agreed order, the certificate shall be reactivated.

(b) A suspended certificate is subject to expiration and termination.

(11) ***Revocation of a certificate is a permanent forfeiture. The board shall establish the minimum period of time before an applicant can apply for a new certificate.***

(a) At the conclusion of the specified period, and upon demonstration of compliance with any educational requirements and the terms set forth in the agreed order, the applicant shall bear the burden of proof to show that he or she is again fit for practice.

(b) The board shall have discretion to impose conditions that it deems reasonably appropriate to ensure the applicant's fitness and the protection of public safety. Any conditions imposed by the board shall address or apply to only that time period after the revocation of the certificate[~~Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation~~].

(12) An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

The Committee Substitute No. 1 to **HB 623** is as follows:

HB 623, AN ACT relating to certified school employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.120 is amended to read as follows:

(1) Except as described in KRS 161.795, the Education Professional Standards Board may revoke, suspend, or refuse to issue or renew; impose probationary or supervisory conditions upon; issue a written reprimand or admonishment; or any combination of those actions regarding any certificate issued under KRS 161.010 to 161.100, or any certificate or license issued under any previous law to superintendents, principals, teachers, substitute teachers, interns, supervisors, directors of pupil personnel, or other administrative, supervisory, or instructional employees for the following reasons:

(a) Being convicted of, or entering an "Alford" plea or plea of nolo contendere to, notwithstanding an order granting probation or suspending imposition of any sentence imposed following the conviction or entry of the plea, one (1) of the following:

1. A felony;
2. A misdemeanor under KRS Chapter ***218A,*** 508, 509, 510, 522, 525, 529, 530, or 531; or
3. A misdemeanor involving a student or minor.

A certified copy of the conviction or plea shall be conclusive evidence of the conviction or plea;

(b) Having sexual contact as defined in KRS 510.010(7) with a student or minor. Conviction in a criminal proceeding shall not be a requirement for disciplinary action;

(c) Committing any act that constitutes fraudulent, corrupt, dishonest, or immoral conduct. If the act constitutes a crime, conviction in a criminal proceeding shall not be a condition precedent to disciplinary action;

(d) Demonstrating willful or careless disregard for the health, welfare, or safety of others;

(e) Physical or mental incapacity that prevents the certificate holder from performing duties with reasonable skill, competence, or safety;

(f) Possessing, using, or being under the influence of alcohol, which impairs the performance of duties;

(g) Unlawfully possessing or unlawfully using a drug during the performance of duties;

(h) Incompetency or neglect of duty;

(i) Making, or causing to be made, any false or misleading statement or concealing a material fact in obtaining issuance or renewal of any certificate;

(j) Failing to report as required by subsection ***(2)***[~~(3)~~] of this section;

(k) Failing to comply with an order of the Education Professional Standards Board;

(l) Violating any state statute relating to schools or the teaching profession;

(m) Violating ***the professional code of ethics for Kentucky school certified personnel established by the Education Professional Standards Board through the promulgation of administrative regulation;***

(n) Violating any administrative regulation promulgated by the Education Professional Standards Board or the Kentucky Board of Education; or

(o)[~~(n)~~]Receiving disciplinary action or having the issuance of a certificate denied or restricted by another jurisdiction on grounds that constitute a violation of this subsection

(2)[~~ If an alleged violation is not of a serious nature and the evidence presented to the Education Professional Standards Board, after an appropriate opportunity for the certificate holder to respond, provides clear indication that the alleged conduct did in fact occur, the board may issue a written admonishment to the certificate holder. The certificate holder shall have the right to file a written response within thirty (30) days of the date of the admonishment and to have the response attached to the admonishment. Alternatively, the certificate holder may file a request for a hearing within thirty (30) days of the date of the written admonishment. Upon receipt of a timely request, the board shall set aside the written admonishment and set the matter for a hearing.~~

~~(3)~~] (a) The superintendent of each local school district shall report in writing to the Education Professional Standards Board the name, address, phone number, Social Security number, and position name of any certified school employee in the employee's district whose contract is terminated or not renewed, for cause except failure to meet local standards for quality of teaching performance prior to the employee gaining tenure; who resigns from, or otherwise leaves, a position under threat of contract termination, or nonrenewal, for cause; who is convicted in a criminal prosecution; or who otherwise may have engaged in any actions or conduct while employed in the school district that might reasonably be expected to warrant consideration for action against the certificate under subsection (1) of this section. The duty to report shall exist without regard to any disciplinary action, or lack thereof, by the superintendent, and the required report shall be submitted within thirty (30) days of the event giving rise to the duty to report.

(b) The district superintendent shall inform the Education Professional Standards Board in writing of the full facts and circumstances leading to the contract termination or nonrenewal, resignation, or other absence, conviction, or otherwise reported actions or conduct of the certified employee, that may warrant action against the certificate under subsection (1) of this section, and shall forward copies of all relevant documents and records in his possession.

(c) The Education Professional Standards Board may consider reports and information received from other sources.

(d) The certified school employee shall be given a copy of any report provided to the Education Professional Standards Board by the district superintendent or other sources***, The employee***[~~ and~~] shall have the right to file a written rebuttal ***to the report*** which shall be ***placed in the official file with the report***[~~attached to the district superintendent's report~~].

(3)[~~(4)~~]A finding or action by a school superintendent or tribunal does not create a presumption of a violation or lack of a violation of subsection (1) of this section.

(4) The board may issue a written admonishment to the certificate holder if the board determines, based on the evidence, that a violation has occurred that is not of a serious nature. A copy of the written admonishment shall be placed in the official file of the certificate holder. The certificate holder may respond in writing to the admonishment within thirty (30) days of receipt and have that response placed in his official certification file. Alternatively, the certificate holder may file a request for a hearing with the board within thirty (30) days of receipt of the admonishment. Upon receipt of a request for a hearing, the board shall set aside the written admonishment and set the matter for hearing pursuant to the provisions of KRS Chapter 13B.

(5) ***(a) The Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B:***

1. Before revoking, suspending, refusing to renew, imposing probationary or supervisory conditions upon, issuing a written reprimand, or any combination of these actions regarding any certificate***;***[~~, the Education Professional Standards Board shall schedule and conduct a hearing in accordance with KRS Chapter 13B.~~]

2.[~~(6)~~] After denying an application for a certificate***,***[~~ or issuing a written admonishment, the Education Professional Standards Board shall set the matter for a hearing~~] upon written request filed within thirty (30) days of ***receipt of*** the letter advising of the denial***; or***[~~, refusal, or admonishment.~~]

3. After issuing a written admonishment, upon written request for a hearing filed within thirty (30) days of receipt of the written admonishment.

(b)[~~(7)~~]Upon request, a hearing may be public or private at the discretion of the certified employee or applicant.

(c)[~~(8)~~]The hearing shall be conducted before the full board, a panel of three (3) members of the board, or a person appointed as hearing officer by the board pursuant to KRS 13B.030(1).

(6)[~~(9)~~]The Education Professional Standards Board or its chair may take emergency action pursuant to KRS 13B.125. Emergency action shall not affect a certificate holder's contract or tenure rights in the school district.

(7)[~~(10)~~] If the Education Professional Standards Board substantiates that sexual contact occurred between a certified employee and a student ***or minor***, the employee's certificate may be revoked or suspended with mandatory treatment of the employee as prescribed by the Education Professional Standards Board. The Education Professional Standards Board may require the employee to pay a specified amount for mental health services for the student ***or minor*** which are needed as a result of the sexual contact.

(8) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the certificate holder.

(9) The board may reconsider, modify, or reverse its decision on any disciplinary action.

(10) Suspension of a certificate shall be for a specified period of time, not to exceed two (2) years.

(a) At the conclusion of the specified period, upon demonstration of compliance with any educational requirements and the terms set forth in the agreed order, the certificate shall be reactivated.

(b) A suspended certificate is subject to expiration and termination.

(11) ***Revocation of a certificate is a permanent forfeiture. The board shall establish the minimum period of time before an applicant can apply for a new certificate.***

(a) At the conclusion of the specified period, and upon demonstration of compliance with any educational requirements and the terms set for in the agreed order, the applicant shall bear the burden of proof to show that he or she is again fit for practice.

(b) The board shall have discretion to impose conditions that it deems reasonably appropriate to ensure the applicant's fitness and the protection of public safety. Any conditions imposed by the board shall address or apply to only that time period after the revocation of the certificate[~~Any individual whose certificate is revoked may apply for reissuance of his certificate when he believes he can demonstrate himself suitable for reissuance, unless the Education Professional Standards Board's order of revocation sets forth a specific minimum period of revocation~~].

(12) An appeal from any final order of the Education Professional Standards Board shall be filed in Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 2. KRS 161.780 is amended to read as follows:

(1) No teacher[~~ or superintendent~~] shall be permitted to terminate his ***or her*** contract within thirty (30) days prior to the beginning of ***the***[~~his~~] school term ***or during the school term*** without the consent of the ***superintendent***[~~board~~]. ***No superintendent shall be permitted to terminate his or her contract within thirty (30) days prior to the beginning of the school term or during the school term without the consent of the employing board of education.*** A teacher[~~ or superintendent~~] shall be permitted to terminate his ***or her*** contract at any other time when schools are not in session by giving two (2) weeks[~~'~~] written notice to the employing ***superintendent***[~~board of education~~]. ***A superintendent shall be permitted to terminate his or her contract at any other time when schools are not in session by giving two (2) weeks written notice to the employing board of education.*** Upon complaint by the employing board ***or superintendent*** to the Education Professional Standards Board[~~ and after investigation by the board~~], the certificate of a teacher or superintendent terminating his contract in any manner other than provided in this section may be suspended for not more than one (1) year***, pursuant to the hearing procedures set forth in Section 1 of this Act***.

(2) If a teacher voluntarily resigns his contract during the school term, the resignation shall be in writing and shall become binding on the date the resignation is accepted by the superintendent. No further action by the employing board is necessary. The resignation is effective on the date specified in the letter of resignation. A resignation, once accepted, may be withdrawn only with the approval of the employing board of education. Nothing in this subsection shall release the teacher from liability to the local board of education for breach of contract.

HB 739, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all employees covered by the retirement system, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.

(2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

(3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.

(4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.

(5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the "substantial risk or forfeiture" rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.

(6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as "grantor" thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

SECTION 2. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in Section 16 of this Act.

(2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.

(3) All retired members of the retirement system who are approved by the retirement system for full-time reemployment as provided in Section 16 of this Act shall be eligible to participate in the plan.

(4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in Section 16 of this Act.

(5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.

(6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section and Section 16 of this Act, "critical shortage area" means a lack of certified teachers in particular subject areas, in grade levels, or in geographic locations at the elementary and secondary level, as

determined annually by the commissioner of education. The commissioner may use any source considered reliable including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas.

(2) The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under this section and Section 16 of this Act. The administrative regulations shall assure that a retired teacher or administrator shall not be hired until the superintendent assures the commissioner of education that the superintendent has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis. The commissioner of education shall report members reemployed under this section to the Kentucky Teachers' Retirement System.

(3) If a local school district needs a person to fill a critical shortage position after reaching its quota established under Section 16 of this Act, the commissioner of education, with the approval of the executive director of the Kentucky Teachers' Retirement System, may allow the district to exceed its quota if the statewide quota has not been met.

SECTION 4. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan qualified under Section 401(a) or 401(k) of the Internal Revenue Code to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.

(2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky and qualified under Section 401(a) or 401(k) of the Internal Revenue Code, to the extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

(3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under subsection (5) of Section 8 of this Act, shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

Section 5. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;~~[and]~~

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis***; and***

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in Section 7 of this Act.

Section 6. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision

of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 7. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Actuaries in Public Practice or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including, but not limited to, mortality, earnable interest, and service and compensation of the members and beneficiaries of the retirement system; make a valuation of the assets and liabilities of the funds of the system; and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(2) Actuarial factors ***and actuarial cost factor tables*** in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees ***by resolution and implemented without the necessity of an administrative regulation.***~~[, but]~~ The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. ***Effective July 1, 1992, the***~~[For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1-1/2) percentage points above the assumed rate of salary increase. Thereafter, this]~~ spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

Section 8. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, survivor benefits, and death benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520, 161.525, and 161.655;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520, 161.525, and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in

KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate~~[up to a maximum of one and sixty-five hundredths percent (1.65%) of]~~ the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund. Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year.

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program.

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the member and the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program.

(9) The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2).

Section 9. KRS 161.500 is amended to read as follows:

(1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

(2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

(3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.

(4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

Section 10. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed

services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. The member shall pay the full actuarial cost of ***this***~~[the]~~ service in the military reserves or the National Guard ***as provided in subsection (22) of Section 5 of this Act***. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 11. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.230 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the Teachers' Retirement System]~~. The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597.

Section 12. KRS 161.548 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed in a regional community mental health and mental retardation service program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his service in the regional community mental health and mental retardation program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the system]~~. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1).~~[Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment.]~~ The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 13. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the system]~~. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 14. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in the respective fiscal years or bienniums prior to July 1, ***2002***~~[2000]~~:

(a)	Cost of Living Allowance	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1986-1988	$4,465,400	~~[$4,465,400 through 2000-2001]~~ ~~[and]~~ $2,331,300 in 2001-2002
	1988-1990	$5,761,700	$5,761,700 through 2002-2003 and $2,972,700 in 2003-2004
	1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
	1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
	1994-1996	$6,142,000	$6,142,000 through 2010-2011
	1996-1998	$4,459,000	$4,459,000 through 2010-2011
	1998-2000	***$15,333,900***~~[$7,395,300]~~	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
	2000-2002	***$2,311,500***	***$6,132,100 through 2001-2002*** ***and*** ***$12,511,400 through 2014-2015*** ***and*** ***$7,227,700 in 2015-2016***
(b)	Minimum Value Annuities	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1986-1988	$1,227,000	~~[$1,227,000 through 2000-2001]~~ ~~[and]~~ $1,020,400 in 2001-2002
	1988-1990	$1,718,200	$1,718,200 through 2002-2003 and $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and

			$1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
(c)	Sick Leave ***2000-2001*** Allowance	~~[1998-1999]~~	Each Succeeding Fiscal Year
	1998-2000	***$5,140,000***	***$5,140,000 through 2012-2013*** ***and*** ***$2,905,600 through 2013-2014***
	2000-2002	***$3,698,800***	***$7,886,400 through 2014-2015*** ***and*** ***$4,187,600 in 2015-2016***
		~~[$3,657,000~~	~~$7,828,000 in 1999-2000]~~ ~~[$7,828,000 through 2012-2013]~~ ~~[and]~~ ~~[$4,171,000 through 2013-2014]~~

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 15. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of ***the full actuarial cost of the service credit purchased as defined in subsection (22) of Section 5 of this Act***~~[such amount or amounts as are actuarially determined to be equal to the increased liability of the Teachers' Retirement System by virtue of such additional service credit.]~~ Such payments shall not be picked up, as described in KRS 161.540(2).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 16. KRS 161.605 is amended to read as follows:

(1) Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities.

(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.

(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the one hundred (100) day limitation in this subsection. The board of trustees shall determine if employment in a nonteaching position qualifies for an exemption under this subsection.

(4) Members retired from an agency listed in KRS 161.220(4)(b) may be employed in a part-time teaching capacity by one (1) of the universities participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year.

(5) Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of

a day of teaching service.

(6) When a retired member returns to employment as a part-time teacher or in a nonteaching capacity as provided in subsections (2), (3), and (4) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for nonuniversity and university members.

(7) The board of trustees may provide for reemployment of retired members as full-time teachers or in a nonteaching capacity under the following conditions:

(a) A retired teacher or administrator may return to full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in Section 3 of this Act and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade levels, or geographic areas, local school districts may employ, as full-time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.

(b) Retired members reemployed under this section shall remain eligible to receive their retirement annuity.

(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of the district.

(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.

(e) Retirees who are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The member's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system, with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest will be paid in a lump sum or on a monthly straight life basis to the retiree. If the member dies before retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.

(f) The provisions pertaining to the reemployment of retired members as full-time employees shall be granted by the board of trustees when it is deemed necessary to assist school districts in filling teaching or nonteaching positions in critical academic or geographic areas and when doing so would not create a significant negative impact on the funding status of the retirement system. The provisions of this subsection are optional with the board of trustees and shall not be covered under KRS 161.714.

Section 17. KRS 161.607 is amended to read as follows:

(1) Any member of the Teachers' Retirement System who enters employment covered by the Kentucky Employees Retirement System, the State Police Retirement System, or the County Employees Retirement System, prior to July 1, 1976, may retain membership in the Teachers' Retirement System instead of joining the new system.

(2) Retention of membership in the Teachers' Retirement System by any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System shall be effected by conforming with KRS 61.680(4)(c). Members of the General Assembly who retain membership shall make retirement contributions based upon their annual compensation as defined under KRS 161.220 or on their creditable compensation as defined under KRS 61.510, whichever is the larger amount. Service as a member of the General Assembly may be used to meet the service requirements of KRS 61.680(2)(a)~~[and 161.510]~~ regardless of the system to which contributions are made by the member.

(3) Any member of the Teachers' Retirement System entering employment as described in subsection (1) of this section must exercise the option within ninety (90) days of the beginning of such employment.

(4) Persons who enter service covered by the Teachers' Retirement System prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in this section may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

Section 18. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed at state colleges or universities that participate in the Teachers' Retirement System shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1990, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one and one-half percent (1.5%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***three hundred twenty-five dollars ($325) effective July 1, 2000, and three hundred thirty-five dollars ($335) effective July 1, 2001***~~[three hundred dollars ($300) effective July 1, 1998, and not less than three hundred ten dollars ($310) effective July 1, 1999]~~, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2000***~~[1998]~~, the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***~~[one and one-half percent (1.5%)]~~ of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***~~[1998-2000]~~ biennium budget appropriation.

(6) Effective July 1, ***2001***~~[1999]~~, the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***one percent (1.0%)***~~[one and one-half percent (1.5%)]~~ of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***~~[1998-2000]~~ biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code as enacted in 1988.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall ***not be used in determining a member's regular retirement annuity but shall be used in determining retirement allowance payments under the supplemental retirement plan of the retirement system which is intended to constitute a qualified governmental excess benefit plan as provided in Section 415 of the Internal Revenue Code***~~[be disregarded]~~. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 19. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active teacher for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(9) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under Section 18 or for compensation credit obtained under KRS 161.155(9) shall be based on the full actuarial cost as defined in subsection (22) of Section 5 of this Act.

Section 20. KRS 161.655 is amended to read as follows:

(1) Effective July 1, ***2000***[~~1998~~], upon the death of a member retired for service or disability, a death benefit of ***five thousand dollars ($5,000)***[~~three thousand dollars ($3,000)~~] shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Upon the death of an active contributing member, a death benefit of two thousand dollars ($2,000) shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for the death benefit shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the payment of death benefits under this section.

(2) Suit or civil action shall not be required for the collection of the death benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

Section 21. KRS 161.675 is amended to read as follows:

(1) ***The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage by health maintenance organizations as defined in KRS 18A.225 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65), to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225***[~~(a) The board of trustees shall enter into contracts with insurance carriers or other health care providers for the purpose of providing a program of hospital and medical insurance coverage to members who are age sixty-five (65) or older and retired for service.~~

~~(b) The board of trustees may enter into contracts with insurance carriers or other health providers for the purpose of providing a broad program of hospital and medical insurance coverage to members below age sixty-five (65) who are retired for service or disability and to the surviving spouse of deceased members who are eligible to receive the member's retirement benefits as provided in KRS 161.525.~~

~~(c) The board of trustees may offer, on a cost basis, coverage of spouses and dependents not eligible for regular coverage~~].

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage ***and eligibility conditions*** to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS[~~ 161.510 and~~] 161.607(2), to qualify for the coverage. The board of trustees shall offer coverage to the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) All expenses for benefits under this section shall be paid from the funding provisions contained in subsection (5) of Section 8 of this Act, premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible recipients of a retirement allowance in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall

establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible recipients of a retirement allowance. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible recipients of a retirement allowance. In order to qualify for health insurance supplements made by the retirement system, the recipient of a supplement payment must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible retirees not eligible for regular coverage. Recipients of a retirement allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of a retired member, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for Federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible retirees or recipients who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by retirees for their individual coverage. Eligible retirees or recipients are those retirees or recipients who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the retiree lived in Kentucky. Eligible retirees or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7)[~~(4)~~]Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8)[~~(5)~~]The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9)[~~(6)~~]Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 22. The following KRS section is repealed:

161.510 Prior service allowed new members.

Section 23. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2000.

The Committee Substitute No. 1 to **HB 739** is as follows:

HB 739, AN ACT relating to retired teachers and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to provide a supplemental retirement benefit plan for the sole purpose of enabling the employer to apply the same formula for determining benefits payable to all employees covered by the retirement system, whose benefits under the retirement system are limited by Section 415 of the Internal Revenue Code of 1986, as amended from time to time. This plan is intended to constitute a qualified governmental excess benefit plan as described in Section 415 of the Internal Revenue Code.

(2) The board of trustees shall administer this plan and have full discretionary fiduciary authority to determine all questions in connection with the plan. The board of trustees may adopt procedural rules and administrative regulations

and may employ and rely on any legal counsel, actuaries, accountants, and agents as it deems advisable to assist in the administration of this plan.

(3) All members and retired former members in the retirement system shall be eligible to participate in this plan whenever their benefits under the retirement system would exceed the limitation on benefits imposed by Section 415 of the Internal Revenue Code.

(4) On or after the effective date of this plan, the employer shall pay to each eligible member in the retirement system who retires on or after that date and to each former member who retired before that date and his or her beneficiaries a supplemental pension benefit, equal to the amount by which the benefit that would have been payable under the retirement system, without regard to any provision therein incorporating the limitation on benefits imposed by Section 415 of the Internal Revenue Code, exceeds the benefit actually payable, taking into account the limitation imposed on the retirement system by Section 415 of the code. These supplemental pension benefits shall be computed and payable under the same terms and conditions and to the same person as the benefits payable to, or on account of, an eligible member under the retirement system.

(5) Benefits payable under this plan shall not be subject to the dollar limit applicable to eligible deferred compensation plans under Section 457 of the Internal Revenue Code, nor to the "substantial risk or forfeiture" rules of Section 457(f) of the code applicable to ineligible deferred compensation plans. In addition, benefits payable under this plan shall not be taken into account in determining whether any other plan of the employer is an eligible deferred compensation plan under Section 457 of the code.

(6) Funding of benefits payable under this plan shall be provided by the state, as employer, and shall be segregated from funds that are maintained by the retirement system for payment of the regular benefits provided by the retirement system. The employer may establish a grantor trust for payment of benefits provided under this plan, with the employer treated as "grantor" thereof for purposes of Section 677 of the Internal Revenue Code. The rights of any person to receive benefits under this plan are limited to those of a general creditor of the employer.

SECTION 2. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) The board of trustees is authorized to implement a limited defined contribution plan for the sole purpose of providing retirement allowance payments for retired members who have been approved by the retirement system for full-time reemployment as provided in Section 16 of this Act.

(2) The defined contribution plan shall be administered separately from the regular benefits provided for members of the retirement system, except that the contributions to the plan shall be invested in the same manner as other contributions to the retirement system.

(3) All retired members of the retirement system who are approved by the retirement system for full-time reemployment as provided in Section 16 of this Act shall be eligible to participate in the plan.

(4) Separate member accounts shall be maintained for participants in this plan which shall reflect the annual contributions made to the participant's account based on the rates and interest levels specified in Section 16 of this Act.

(5) When the retiree's reemployment terminates, the total contributions and accrued interest in the participant's account will be paid in a lump sum payment or on an actuarial straight life monthly basis to the retiree. If the member dies prior to making application for a retirement allowance under this plan, the beneficiary designated by the participant for this plan shall receive a refund of the funds in the account. If there is a remaining balance in the account at the death of the participant after retirement from this plan, it shall be paid to the beneficiary designated by the participant for this benefit.

(6) Retired members shall be eligible to receive their retirement annuity when approved for reemployment and participation in this plan. Service as a reemployed retiree may not be used in any manner for credit under the regular retirement benefit plans provided by the retirement system.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) For purposes of this section and Section 16 of this Act, "critical shortage area" means a lack of certified teachers in particular subject areas, in grade levels, or in geographic locations at the elementary and secondary level, as determined annually by the commissioner of education. The commissioner may use any source considered reliable including, but not limited to, data provided by the Education Professional Standards Board and local education agencies to identify the critical shortage areas.

(2) The Kentucky Board of Education shall promulgate administrative regulations to establish procedures to be used to appoint retired teachers and administrators to positions in critical shortage areas under this section and Section 16 of this Act. The administrative regulations shall assure that a retired teacher or administrator shall not be hired until the superintendent assures the commissioner of education that the superintendent has made every reasonable effort to recruit an active teacher or administrator for the position on an annual basis. The commissioner of education shall report members reemployed under this section to the Kentucky Teachers' Retirement System.

(3) If a local school district needs a person to fill a critical shortage position after reaching its quota established under Section 16 of this Act, the commissioner of education, with the approval of the executive director of the Kentucky

Teachers' Retirement System, may allow the district to exceed its quota if the statewide quota has not been met.

SECTION 4. A NEW SECTION OF KRS 161.230 TO 161.716 IS CREATED TO READ AS FOLLOWS:

(1) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by rolling over funds from a previous plan qualified under Section 401(a) or 401(k) of the Internal Revenue Code to the extent that rollovers are permitted by the rules set forth in the Internal Revenue Code. The rollovers may be made directly from a previous qualified plan or through a conduit individual retirement account as permitted by the rules set forth in the Internal Revenue Code.

(2) Any active contributing member may purchase service credit as authorized under KRS Chapter 161 by transferring funds directly from a retirement plan maintained by the Commonwealth of Kentucky and qualified under Section 401(a) or 401(k) of the Internal Revenue Code, to the extent that transfers are permitted by the rules set forth in the Internal Revenue Code.

(3) The amount of any transfer or rollover purchase as permitted under subsections (1) and (2) of this section, excluding that portion credited to the medical insurance fund under subsection (5) of Section 8 of this Act, shall be credited to the individual member's account and shall be considered accumulated contributions of the member.

Section 5. KRS 161.220 is amended to read as follows:

As used in KRS 161.230 to 161.716 and KRS 161.990:

(1) "Retirement system" means the arrangement provided for in KRS 161.230 to 161.716 and KRS 161.990 for payment of allowances to members;

(2) "Retirement allowance" means the amount annually payable during the course of his natural life to a member who has been retired by reason of service;

(3) "Disability allowance" means the amount annually payable to a member retired by reason of disability;

(4) "Member" means the chief state school officer, deputy commissioners, associate commissioners, and all division directors in the State Department of Education, and any regular or special teacher, or professional occupying a position requiring certification or graduation from a four (4) year college or university, as a condition of employment, and who is employed by public boards, institutions, or agencies as follows:

(a) Local boards of education;

(b) Eastern Kentucky University, Kentucky State University, Morehead State University, Murray State University, Western Kentucky University, and any community colleges established under the control of these universities;

(c) State-operated secondary area vocational education or area technology centers, Kentucky School for the Blind, and Kentucky School for the Deaf;

(d) The State Department of Education, other public education agencies as created by the General Assembly, and those members of the administrative staff of the Teachers' Retirement System of the State of Kentucky whom the board of trustees may designate by administrative regulation;

(e) Regional cooperative organizations formed by local boards of education or other public educational institutions listed in this subsection, for the purpose of providing educational services to the participating organizations;

(f) All full-time members of the staffs of the Kentucky Association of School Administrators, Kentucky Education Association, Kentucky Vocational Association, Kentucky High School Athletic Association, Kentucky Academic Association, and the Kentucky School Boards Association who were members of the Kentucky Teachers' Retirement System or were qualified for a position covered by the system at the time of employment by the association in the event that the board of directors of the respective association petitions to be included. The board of trustees of the Kentucky Teachers' Retirement System may designate by resolution whether part-time employees of the petitioning association are to be included. The state shall make no contributions on account of these employees, either full-time or part-time. The association shall make the employer's contributions, including any contribution that is specified under KRS 161.550. The provisions of this paragraph shall be applicable to persons in the employ of the associations on or subsequent to July 1, 1972;

(g) The Department for Adult Education and Literacy;

(h) The Department for Technical Education;

(i) The Office of General Counsel within the Office of the Secretary of the Cabinet for Workforce Development;

(j) The Office for Policy and Budget within the Office of the Secretary of the Cabinet for Workforce Development;

(k) The Office of Personnel Services within the Office of the Secretary of the Cabinet for Workforce Development;

(l) The Office for Administrative Services within the Office of the Secretary of the Cabinet for Workforce Development;

(m) The Department of Vocational Rehabilitation;

(n) The Kentucky Educational Collaborative for State Agency Children;

(o) The Governor's Scholars Program;

(p) Any person who is retired for service from the retirement system and is reemployed by an employer identified in this subsection in a position that the board of trustees deems to be a member;

(q) Employees of the Cabinet for Workforce Development who are transferred to the Kentucky Community and Technical College System and who occupy positions covered by the Kentucky Teachers' Retirement System shall remain in the Teachers' Retirement System. New employees occupying these positions, as well as newly created positions qualifying for Teachers' Retirement System coverage that would have previously been included in the Cabinet for Workforce Development, shall be members of the Teachers' Retirement System; and

(r) Effective January 1, 1998, employees of state community colleges who are transferred to the Kentucky Community and Technical College System shall continue to participate in federal old age, survivors, disability, and hospital insurance and a retirement plan other than the Kentucky Teachers' Retirement System offered by Kentucky Community and Technical College System. New employees occupying positions in the Kentucky Community and Technical College System as referenced in KRS 164.5807(5) that would not have previously been included in the Cabinet for Workforce Development, shall participate in federal old age, survivors, disability, and hospital insurance and have a choice at the time of employment of participating in a retirement plan provided by the Kentucky Community and Technical College System, including participation in the Kentucky Teachers' Retirement System, on the same basis as faculty of the state universities as provided in KRS 161.540 and 161.620.

(5) "Present teacher" means any teacher who was a teacher on or before July 1, 1940, and became a member of the retirement system created by 1938 (1st Extra. Sess.) Ky. Acts ch. 1, on the date of the inauguration of the system or within one (1) year after that date, and any teacher who was a member of a local teacher retirement system in the public elementary or secondary schools of the state on or before July 1, 1940, and continued to be a member of the system until he, with the membership of the local retirement system, became a member of the state Teachers' Retirement System or who becomes a member under the provisions of KRS 161.470(4);

(6) "New teacher" means any member not a present teacher;

(7) "Prior service" means the number of years during which the member was a teacher in Kentucky prior to July 1, 1941, except that not more than thirty (30) years' prior service shall be allowed or credited to any teacher;

(8) "Subsequent service" means the number of years during which the teacher is a member of the Teachers' Retirement System after July 1, 1941;

(9) "Final average salary" means the average of the five (5) highest annual salaries which the member has received for service in a covered position and on which the member has made contributions, or on which the public board, institution, or agency has picked-up employee contributions pursuant to KRS 161.540(2), or the average of the five (5) years of highest salaries as defined in KRS 61.680(2)(a), which shall include picked-up employee contributions. Additionally, the board of trustees may approve a final average salary based upon the average of the three (3) highest salaries for members who are at least fifty-five (55) years of age and have a minimum of twenty-seven (27) years of Kentucky service credit. However, if any of the five (5) or three (3) highest annual salaries used to calculate the final average salary was paid within the three (3) years immediately prior to the date of the member's retirement, the amount of salary to be included for each of those three (3) years for the purpose of calculating the final average salary shall be limited to the lesser of:

(a) The member's actual salary; or

(b) The member's annual salary that was used for retirement purposes during each of the prior three (3) years, plus a percentage increase equal to the percentage increase received by all other members employed by the public board, institution, or agency, or for employees of school districts, the highest percentage increase received by members on any one (1) rank and step of the salary schedule of the school district. The increase shall be computed on the salary that was used for retirement purposes.

This limitation shall not apply if the member receives an increase in salary in a percentage exceeding that received by the other members, and this increase was accompanied by a corresponding change in position or in length of employment. This limitation shall also not apply to the payment to a member for accrued annual leave or accrued sick leave which is authorized by statute and which shall be included as part of a retiring member's annual compensation for the member's last year of active service;

(10) "Annual compensation" means the total salary received by a member as compensation for all services performed in employment covered by the retirement system during a fiscal year. Annual compensation shall not include payment for any benefit or salary adjustments made by the public board, institution, or agency to the member or on behalf of the member which is not available as a benefit or salary adjustment to other members employed by that public board, institution, or agency. Annual compensation shall not include the salary supplement received by a member under KRS 158.782 on or after July 1, 1996. The board of trustees shall determine if any benefit or salary adjustment qualifies as annual compensation;

(11) "Age of member" means the age attained on the first day of the month immediately following the birthdate of the member. This definition is limited to retirement eligibility and does not apply to tenure of members;

(12) "Age of entrance" means the age attained at the last birthday of any member at the time of the establishment of the retirement system, if the member was a member subject to membership in the system at that time. Otherwise it means the age attained as of July 1 of the fiscal year in which he first becomes a member of the retirement system. Any birthday occurring on February 29 shall be considered as occurring on February 28;

(13) "Regular interest" means interest at three percent (3%) per annum;

(14) "Accumulated contributions" means the contributions of a member to the teachers' savings fund, including picked-up employee contributions as described in KRS 161.540(2), plus accrued regular interest;

(15) "Annuitant" means a person who receives a retirement allowance or a disability allowance;

(16) "Local retirement system" means any teacher retirement or annuity system created in any public school district in Kentucky in accordance with the laws of Kentucky;

(17) "Fiscal year" means the twelve (12) month period from July 1 to June 30. A contract for a member employed by a local board of education may not exceed two hundred sixty-one (261) days in the fiscal year;

(18) "Public schools" means the schools and other institutions mentioned in subsection (4) of this section;

(19) "Dependent" as used in KRS 161.520 and 161.525 means a person who was receiving, at the time of death of the member, at least one-half (1/2) of the support from the member for maintenance, including board, lodging, medical care, and related costs;

(20) "Active contributing member" means a member currently making contributions to the Teachers' Retirement System, who made contributions in the next preceding fiscal year, for whom picked-up employee contributions are currently being made, or for whom these contributions were made in the next preceding fiscal year;~~[and]~~

(21) "Regular teacher, supervisor, or administrator," when used to determine eligibility for membership in the retirement system, means a professional employee holding a position which requires services on a continuing basis equal to at least seven-tenths (7/10) of normal full-time service on a daily or weekly basis***; and***

(22) "Full actuarial cost," when used to determine the payment that a member must pay for service credit means the actuarial value of all costs associated with the enhancement of a member's benefits or eligibility for benefit enhancements, including health insurance supplement payments made by the retirement system. The actuary for the retirement system shall determine the full actuarial value costs and actuarial cost factor tables as provided in Section 7 of this Act.

Section 6. KRS 161.250 is amended to read as follows:

(1) The general administration and management of the retirement system, and the responsibility for its proper operation and for making effective provisions of KRS 161.155 and 161.220 to 161.714 are vested in a board of trustees to be known as the "Board of Trustees of the Teachers' Retirement System of the State of Kentucky." The board of trustees shall consist of the chief state school officer, the State Treasurer, and seven (7) other trustees elected as provided in KRS 161.260. Four (4) of the elective trustees shall be members of the retirement system, to be known as teacher trustees, two (2) shall be persons who are not members of the teaching profession, to be known as the lay trustees, and one (1) shall be an annuitant of the retirement system to be known as the retired teacher trustee. One (1) teacher trustee shall be elected annually for a four-year term. The retired teacher trustee shall be elected every four (4) years. The chief state school officer and the State Treasurer are considered ex-officio members of the board of trustees and may designate in writing a person to represent them at board meetings.

(2) A member, retired member, or designated beneficiary may appeal the retirement system's decisions that materially affect the amount of service retirement allowance, amount of service credit, eligibility for service retirement or eligibility for survivorship benefits to which that member, retired member, or designated beneficiary claims to be entitled. All appeals must be in writing and filed with the retirement system within thirty (30) days of the claimant's first notice of the retirement system's decision. For purposes of this section, notice shall be complete and effective upon the date of mailing of the retirement system's decision to the claimant at the claimant's last known address. Failure by the claimant to file a written appeal with the retirement system within the thirty (30) day period shall result in the decision of the retirement system becoming permanent with the effect of a final and unappealable order. Appeals may include a request for an administrative hearing which shall be conducted in accordance with the provisions of KRS Chapter 13B. A member, retired member, or designated beneficiary who has filed a timely, written appeal of a decision of the retirement system may, following the administrative hearing and issuance of the final order by the board of trustees, appeal the final order of the board of trustees to the Franklin Circuit Court in accordance with the provisions of KRS Chapter 13B.

Section 7. KRS 161.400 is amended to read as follows:

(1) The board of trustees shall designate as actuary a competent person who shall be a fellow of the Conference of Actuaries in Public Practice or a member of the American Academy of Actuaries. He shall be the technical adviser of the board on matters regarding the operation of the funds of the system and shall perform such other duties as are required in connection therewith. At least once in each six (6) year period after the first year of operation of the system, the actuary shall make an actuarial investigation into the actuarial assumptions used, including, but not limited to, mortality, earnable

interest, and service and compensation of the members and beneficiaries of the retirement system; make a valuation of the assets and liabilities of the funds of the system; and recommend to the board of trustees such changes as may be deemed necessary to keep the retirement system on a sound financial basis. On the basis of the results of such investigations, the board of trustees shall make necessary changes in the retirement system within the provisions of law and shall recommend the contributions payable by the state within the limits specified in KRS 161.550. At least once in each two (2) year period the actuary shall make an actuarial valuation of the retirement system. The valuation shall include a description of the actuarial assumptions used, and such assumptions shall be reasonably related to the experience of the system and represent the actuary's best estimate of anticipated experience.

(2) Actuarial factors ***and actuarial cost factor tables*** in use by the retirement system for all purposes shall be determined by the actuary of the retirement system and approved by the board of trustees ***by resolution and implemented without the necessity of an administrative regulation.***~~[, but]~~ The assets of the system shall be valued at market value, or at a modified market value determined by the board to be a prudent measure of asset value. ***Effective July 1, 1992, the***~~[For the period July 15, 1990, to June 30, 1992, the assumed rate of investment return shall be set at one and one-half (1 1/2) percentage points above the assumed rate of salary increase. Thereafter, this]~~ spread between investment and salary assumptions shall be reviewed and adjusted at the time of actuarial valuation, based upon the most recent five (5) year experience of the system.

(3) A copy of each actuarial investigation and valuation shall be forwarded to the Legislative Research Commission no later than ten (10) days after receipt by the board.

Section 8. KRS 161.420 is amended to read as follows:

All of the assets of the retirement system are for the exclusive purpose of providing benefits to members and annuitants and defraying reasonable expenses of administering the system. The board of trustees shall be the trustee of all funds of the system and shall have full power and responsibility for administering the funds. It is hereby declared that the restrictions and rights provided herein shall not be subject to reduction or impairment by alteration, amendment, or repeal. All the assets of the retirement system shall be credited according to the purpose for which they are held to one (1) of the following funds:

(1) The expense fund shall consist of the funds set aside from year to year by the board of trustees to defray the expenses of the administration of the retirement system. Each fiscal year an amount not greater than four percent (4%) of the income earned from investments during the immediate past fiscal year shall be set aside into the expense fund or expended for the administration of the retirement system;

(2) The teachers' savings fund shall consist of the contributions paid by members of the retirement system into this fund and regular interest assigned by the board of trustees from the guarantee fund. The accumulated contributions of a member returned to him upon his withdrawal or paid to his estate or designated beneficiary in the event of his death shall be paid from the teachers' savings fund. Any accumulated contributions forfeited by a failure of a teacher or his estate to claim these contributions shall be transferred from the teachers' savings fund to the guarantee fund. The accumulated contributions of a member shall be transferred from the teachers' savings fund to the allowance reserve fund in the event of retirement by reason of service or disability;

(3) The state accumulation fund shall consist of funds appropriated by the state for the purpose of providing annuities, survivor benefits, and death benefits, including any sums appropriated for meeting unfunded liabilities, together with regular interest assigned by the board of trustees from the guarantee fund. At the time of retirement or death of a member there shall be transferred from the state accumulation fund to the allowance reserve fund an amount which together with the sum transferred from the teachers' savings fund will be sufficient to provide the member a retirement allowance and provide for benefits under KRS 161.520, 161.525, and 161.655;

(4) The allowance reserve fund shall be the fund from which shall be paid all retirement allowances and benefits provided under KRS 161.520, 161.525, and 161.655. In addition, whenever a change in the status of a member results in an obligation on this fund, there shall be transferred to this fund from the teachers' savings fund, and the state accumulation fund, the amounts as may be held in those funds for the account or benefit of the member;

(5) The medical insurance fund shall consist of amounts accumulated for the purpose of providing benefits as provided in KRS 161.675. One and five tenths percent (1.5%) of the gross annual payroll of all members shall be deposited to this fund. One-half (1/2) of this amount shall derive from member contributions and one-half (1/2) from a state appropriation. The board of trustees may allocate~~[up to a maximum of one and sixty-five hundredths percent (1.65%) of]~~ the three and twenty-five hundredths percent (3.25%) of the total salaries of active members that the state appropriates annually as provided under KRS 161.550. All claims for benefits under KRS 161.675 shall be paid from this fund. Any amounts not required to meet current costs shall be maintained as a reserve for these benefits; and

(6) The guarantee fund shall be maintained to facilitate the crediting of uniform interest on the amounts of the other funds, except the expense fund, to finance operating expenses directly related to investment management services, and to provide a contingent fund out of which special requirements of any of the other funds may be covered. All income, interest, and dividends derived from the authorized deposits and investments shall be paid into the guarantee fund. Any funds received from gifts and bequests, which the board is hereby authorized to accept and expend without limitation in a manner either expressed by the donor or deemed to be in the best interest of the membership, shall be credited to the guarantee fund.

Any funds transferred from the teachers' savings fund by reason of lack of claimant or because of a surplus in any fund and any other moneys whose disposition is not otherwise provided for, shall also be credited to the guarantee fund. The interest allowed by the board of trustees to each of the other funds shall be paid to these funds from the guarantee fund. Any deficit occurring in any fund that would not be automatically covered shall be met by the payments from the guarantee fund to that fund. The board of trustees may, at any time during a fiscal year, transfer from the guarantee fund to the medical insurance fund an amount not to exceed four percent (4%) of the income earned from investments during the immediate past year.

(7) The school employee annuity fund shall consist of those funds voluntarily contributed under the provisions of section 403(b) of the Internal Revenue Code by a retired member of the Teachers' Retirement System with accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to manage this program.

(8) The supplemental retirement benefit fund shall consist of those funds contributed by the member and the employer for the purpose of constituting a qualified government excess benefit plan as described in Section 415 of the Internal Revenue Code for accounts that existed on or after July 1, 1996. The contributions shall not be picked up as provided in KRS 161.540(2). Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program.

(9) The defined contribution fund shall consist of those funds contributed by retired members who have been approved by the retirement system for full-time reemployment in a position covered by the retirement system and contributions made by the employer for the purpose of providing separate retirement allowances for periods of reemployment. Separate member accounts shall be maintained for each member. The board of trustees may promulgate administrative regulations pursuant to KRS Chapter 13A to administer this program. The contributions shall not be picked up as provided in KRS 161.540(2).

Section 9. KRS 161.500 is amended to read as follows:

(1) At the close of each fiscal year, the retirement system shall add service credit to the account of each member who made contributions to his or her account during the year. Members shall be entitled to a full year of service credit if their total paid days were not less than one hundred eighty (180) days of a one hundred eighty-five (185) day contract for a regular school or fiscal year. In the event a member is paid for less than one hundred eighty (180) days, the member may purchase credit according to administrative regulations established by the board of trustees. In no case shall more than one (1) year of service be credited for all service performed in one (1) fiscal year. Members who complete their employment contract prior to the close of a fiscal year and elect to retire prior to the close of a fiscal year shall have their service credit reduced by eight percent (8%) for each calendar month that the retirement becomes effective prior to July 1.

(2) Members who are employed and paid for less than the number of days required in their normal employment year shall be entitled to pro rata service credit for the fractional service. Such credit shall be based upon the number of days employed and the number of days in the member's annual employment agreement or normal employment year.

(3) Service credit may not exceed the ratio between the school or fiscal year and the number of months or fraction of a month the member is employed during that year.

(4) No service credit shall be granted in the Teachers' Retirement System for service that has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

Section 10. KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. The member shall pay the full actuarial cost of ***this***~~[the]~~ service in the military reserves or the National Guard ***as provided in subsection (22) of Section 5 of this Act***. Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 11. KRS 161.5465 is amended to read as follows:

On or after August 1, 1998, a member of the Teachers' Retirement System in active contributing status who has a minimum of twenty (20) years of service credit may purchase up to a maximum of five (5) years of service credit that is not otherwise purchasable under any of the provisions of KRS 161.230 to 161.716 and that meets the definition of nonqualified service as provided in Section 1526 of the Federal Taxpayer Relief Act of 1997. The member shall pay the full actuarial cost of the service credit as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the Teachers' Retirement System]~~. The payment shall not be picked up by the employer as described in KRS 161.540(2), and the member's payment shall be credited to the member's contribution account and shall be considered accumulated contributions of the member. Payment by the member may be by lump sum or by installment payments as provided in KRS 161.597.

Section 12. KRS 161.548 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed in a regional community mental health and mental retardation service program, organized and operated under the provisions of KRS 210.370 to 210.480, which does not participate in a state-administered retirement system, may obtain credit for the period of his service in the regional community mental health and mental retardation program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the system]~~. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1).~~[Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment.]~~ The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 13. KRS 161.549 is amended to read as follows:

A member of the Teachers' Retirement System who is in an active contributing status with the system, and who was formerly employed by a Federal Head Start agency, operated under 42 U.S.C. secs. 9831 et seq., which does not participate in a state-administered retirement system, may obtain credit for the period of the member's service in the Head Start program by paying to the Teachers' Retirement System the full ***actuarial*** cost of the service credit purchased, as ***provided in subsection (22) of Section 5 of this Act***~~[determined by the system]~~. The service credit purchased may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). Payment for the service credit purchased may be made in installments in lieu of a lump-sum payment. The payment shall not be picked up, as described in KRS 161.540(2), and the entire payment shall be placed in the teachers' savings fund.

Section 14. KRS 161.553 is amended to read as follows:

(1) The cost of providing statutory benefit improvements for annuitants may be funded by annual appropriations from the state on an actuarial amortized basis over the lifetime of the annuitants. The schedules in subsections (1)(a), (1)(b), and (1)(c) of this section are the annual appropriations which shall be made by the state for benefit improvements approved in

the respective fiscal years or bienniums prior to July 1, ***2002***~~[2000]~~:

(a)	Cost of Living Allowance	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1986-1988	$4,465,400	~~[$4,465,400 through 2000-2001]~~ ~~[and]~~ $2,331,300 in 2001-2002
	1988-1990	$5,761,700	$5,761,700 through 2002-2003 and $2,972,700 in 2003-2004
	1990-1992	$4,901,700	$4,901,700 through 2004-2005 and $2,486,800 in 2005-2006
	1992-1994	$2,229,400	$2,229,400 through 2006-2007 and $1,125,700 in 2007-2008
	1994-1996	$6,142,000	$6,142,000 through 2010-2011
	1996-1998	$4,459,000	$4,459,000 through 2010-2011
	1998-2000	***$15,333,900***~~[$7,395,300]~~	$15,333,900 through 2012-2013 and $7,938,600 through 2013-2014
	2000-2002	***$2,311,500***	***$6,132,100 through 2001-2002*** ***and*** ***$12,511,400 through 2014-2015*** ***and*** ***$7,227,700 in 2015-2016***
(b)	Minimum Value Annuities	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1986-1988	$1,227,000	~~[$1,227,000 through 2000-2001]~~ ~~[and]~~ $1,020,400 in 2001-2002
	1988-1990	$1,718,200	$1,718,200 through 2002-2003 and $879,500 in 2003-2004
	1990-1992	$2,246,900	$2,246,900 through 2004-2005 and $1,232,100 in 2005-2006
	1992-1994	$2,217,700	$2,217,700 through 2006-2007
	1994-1996	$2,126,000	$2,126,000 through 2008-2009
(c)	Sick Leave Allowance	***2000-2001***~~[1998-1999]~~	Each Succeeding Fiscal Year
	1998-2000	***$5,140,000***	***$5,140,000 through 2012-2013*** ***and*** ***$2,905,600 through 2013-2014***

2000-2002	***$3,698,800***	***$7,886,400 through 2014-2015*** ***and*** ***$4,187,600 in 2015-2016***
	~~[$3,657,000~~	~~$7,828,000 in 1999-2000]~~ ~~[$7,828,000 through 2012-2013]~~ ~~[and]~~ ~~[$4,171,000 through 2013-2014]~~

(2) The present values of providing statutory cost-of-living increases for annuitants not included in subsection (1) of this section are to be assigned to the unfunded obligations of the retirement system and are identified as follows:

1986-1988	$34,689,893
1990-1992	$68,107,473
1992-1994	$15,749,976

Section 15. KRS 161.595 is amended to read as follows:

(1) Upon service retirement, a member of the Teachers' Retirement System may obtain credit for all or any part of the service otherwise creditable under the Kentucky Employees Retirement System, the County Employees Retirement System, or in the service of the United States government for which service credit is not otherwise given, upon the payment by the member of ***the full actuarial cost of the service credit purchased as defined in subsection (22) of Section 5 of this Act***~~[such amount or amounts as are actuarially determined to be equal to the increased liability of the Teachers' Retirement System by virtue of such additional service credit.]~~ Such payments shall not be picked up, as described in KRS 161.540(2).

(2) The amount paid under this section shall be considered as accumulated contributions of the individual member.

(3) No person shall be allowed credit for the same period of service in more than one (1) of these three (3) retirement systems.

Section 16. KRS 161.605 is amended to read as follows:

(1) Retired members may perform substitute teaching in the public schools for the equivalent of one hundred (100) days in any one (1) school year and receive compensation based on a standard salary schedule adopted by a district for all substitute teachers without reduction in retirement annuities.

(2) A retired member may be employed as a part-time or temporary teacher in the public schools for a period not to exceed the equivalent of one hundred (100) days in any one (1) school year.

(3) Retired members may be employed part-time or temporarily in a nonteaching capacity in the public schools and receive compensation for this employment without reduction in retirement annuities, except that retired members may not be employed in excess of a one hundred (100) day period in any one (1) school year in the same position from which they retired, or a position substantially similar to the one from which they retired, or any position listed in KRS 161.220(4) which requires membership in the retirement system. Positions which generally require certification or graduation from a four (4) year college or university as a condition of employment which are created, or changed to remove the position from coverage under KRS 161.220(4) are also subject to the one hundred (100) day limitation in this subsection. The board of trustees shall determine if employment in a nonteaching position qualifies for an exemption under this subsection.

(4) Members retired from an agency listed in KRS 161.220(4)(b) may be employed in a part-time teaching capacity by one (1) of the universities participating in the Teachers' Retirement System, not to exceed the equivalent of twelve (12) teaching hours in any one (1) fiscal year.

(5) Calculation of the number of days for part-time teaching, substitute teaching, or part-time employment in a nonteaching capacity under this section shall not exceed the ratio between a school year and the actual months of retirement for the member during that school year. The board of trustees by administrative regulation may establish fractional equivalents of a day of teaching service.

(6) When a retired member returns to employment as a part-time teacher or in a nonteaching capacity as provided in subsections (2), (3), and (4) of this section, the employer shall contribute annually to the retirement system on the compensation paid to the retired member at rates determined by the retirement system actuary that reflect accrued liability for nonuniversity and university members.

(7) The board of trustees may provide for reemployment of retired members as full-time teachers or in a nonteaching capacity under the following conditions:

(a) A retired teacher or administrator may return to full-time teaching in a position that has been determined by the commissioner of education to be a critical shortage area as defined in Section 3 of this Act and for which the person is certified. When the commissioner of education certifies to the retirement system that qualified applicants are not available to fill teaching or administrative positions in critical academic subject areas, grade

levels, or geographic areas, local school districts may employ, as full-time employees, during a school fiscal year, up to a maximum of two (2) retired members, or one percent (1%) of the total active members of the retirement system in a school district, whichever is greater. Retired members who are reemployed in a full-time position covered by the retirement system shall be rehired on a one (1) year contract in a district other than the one from which they retired following an absence of at least three (3) months or in the same district from which they retired following an absence of at least one (1) year.

(b) Retired members reemployed under this section shall remain eligible to receive their retirement annuity.

(c) Retired members reemployed under this subsection shall waive their health insurance coverage with the retirement system during the period of reemployment and receive health insurance coverage that is provided to regular full-time employees of the district.

(d) Local school districts shall make annual payments to the retirement system on the compensation paid to the reemployed retirees at rates determined by the retirement system's actuary that reflect accrued liability for nonuniversity members.

(e) Retirees who are reemployed under this provision shall make retirement contributions to the retirement system at rates specified under KRS 161.540 and the employer shall make contributions to the retirement system at rates specified under KRS 161.550. The member's entire contribution and a matching amount from the employer's contribution shall be placed in a separate defined contribution fund administered by the retirement system, with annual interest applied at the actuarially assumed rate. When the retiree's reemployment terminates, the total contributions with interest will be paid in a lump sum or on a monthly straight life basis to the retiree. If the member dies before retiring, the designated beneficiary shall receive a refund, and if there is a remaining balance at the death of the member after retirement, it shall be paid to the beneficiary designated by the member for this benefit.

(f) The provisions pertaining to the reemployment of retired members as full-time employees shall be granted by the board of trustees when it is deemed necessary to assist school districts in filling teaching or nonteaching positions in critical academic or geographic areas and when doing so would not create a significant negative impact on the funding status of the retirement system. The provisions of this subsection are optional with the board of trustees and shall not be covered under KRS 161.714.

Section 17. KRS 161.607 is amended to read as follows:

(1) Any member of the Teachers' Retirement System who enters employment covered by the Kentucky Employees Retirement System, the State Police Retirement System, or the County Employees Retirement System, prior to July 1, 1976, may retain membership in the Teachers' Retirement System instead of joining the new system.

(2) Retention of membership in the Teachers' Retirement System by any member of the General Assembly who upon election is a contributing member of the Teachers' Retirement System shall be effected by conforming with KRS 61.680(4)(c). Members of the General Assembly who retain membership shall make retirement contributions based upon their annual compensation as defined under KRS 161.220 or on their creditable compensation as defined under KRS 61.510, whichever is the larger amount. Service as a member of the General Assembly may be used to meet the service requirements of KRS 61.680(2)(a)~~[and 161.510]~~ regardless of the system to which contributions are made by the member.

(3) Any member of the Teachers' Retirement System entering employment as described in subsection (1) of this section must exercise the option within ninety (90) days of the beginning of such employment.

(4) Persons who enter service covered by the Teachers' Retirement System prior to July 1, 1976, and who hold membership in a Kentucky retirement system financed in whole or part with public funds may retain membership in that system providing the statutes and regulations governing said system make continued membership possible.

(5) Any person who has elected an option provided in this section may cancel such election and gain membership in the system which normally covers the position in which currently employed, provided that such cancellation of option election must be completed prior to January 1, 1977.

Section 18. KRS 161.620 is amended to read as follows:

(1) The retirement allowance, in the form of a life annuity with refundable balance, of a member retiring for service shall be calculated as follows:

(a) For retirements effective July 1, 1998, and thereafter, the annual allowance for each year of service shall be two percent (2%) of the final average salary for service performed prior to July 1, 1983, and two and one-half percent (2.5%) of the final average salary for service performed after July 1, 1983, for all members not employed by a state college or university. The annual retirement allowance for each year of service performed at state colleges or universities that participate in the Teachers' Retirement System shall be two percent (2%) of the final average salary. Actuarial discounts due to age or service credit at retirement may be applied as provided in this section; and

(b) The retirement allowance of a member at retirement shall not exceed the member's last annual compensation or the member's final average salary, whichever is the greater amount.

(2) Effective July 1, 1990, and annually on July 1 thereafter, the retirement allowance of each retired member and of each beneficiary of a retirement option who has been retired at least ten (10) months shall be increased in the amount of one and one-half percent (1.5%).

(3) Any member qualifying for retirement under a life annuity with refundable balance shall be entitled to receive an annual allowance amounting to not less than ***three hundred twenty-five dollars ($325) effective July 1, 2000, and three hundred thirty-five dollars ($335) effective July 1, 2001***~~[three hundred dollars ($300) effective July 1, 1998, and not less than three hundred ten dollars ($310) effective July 1, 1999]~~, multiplied by the service credit years of the member. These minimums shall apply to the retired members receiving annuity payments and to those members retiring on or subsequent to the effective dates listed in this subsection.

(4) The minimum retirement allowance provided in this section shall apply in the case of members retired or retiring under an option other than a life annuity with refundable balance in the same proportion to the benefits of the member and his beneficiary or beneficiaries as provided in the duly-adopted option tables at the time of the member's retirement.

(5) Effective July 1, ***2000***~~[1998]~~, the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***eight-tenths of one percent (0.8%)***~~[one and one-half percent (1.5%)]~~ of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***~~[1998-2000]~~ biennium budget appropriation.

(6) Effective July 1, ***2001***~~[1999]~~, the monthly allowance of each member retired for at least one (1) year, and each recipient of a retirement option of the retired member shall be increased in an amount not to exceed ***one percent (1.0%)***~~[one and one-half percent (1.5%)]~~ of the monthly allowance in effect the previous month. The level of increase provided for in this subsection shall be determined by the funding provided in the ***2000-2002***~~[1998-2000]~~ biennium budget appropriation.

(7) Effective July 1, 1990, monthly payments of two hundred dollars ($200) shall be payable for the benefit of an adult child of a member retired for service when the child's mental or physical condition is sufficient to cause dependency on the member at the time of retirement. Eligibility for this payment shall continue for the life of the child or until the time the mental or physical condition creating the dependency no longer exists or the child marries. Benefits under this subsection shall apply to legally adopted survivors provided the proceedings for the adoption were initiated at least one (1) year prior to the death of the member. The board of trustees shall be the sole judge of eligibility or dependency and may require formal application or information relating thereto.

(8) Members of the Teachers' Retirement System shall be subject to the annuity income limitations imposed by Section 415 of the Internal Revenue Service Code as enacted in 1988.

(9) Compensation in excess of the limitations imposed by Section 401(a)(17) of the Internal Revenue Code shall ***not be used in determining a member's regular retirement annuity but shall be used in determining retirement allowance payments under the supplemental retirement plan of the retirement system which is intended to constitute a qualified governmental excess benefit plan as provided in Section 415 of the Internal Revenue Code***~~[be disregarded]~~. The limitation on compensation for eligible members shall not be less than the amount which was allowed to be taken into account by the retirement system in effect on July 1, 1993. For this purpose, an eligible member is an individual who was a member of the retirement system before the first plan year beginning after December 31, 1995.

Section 19. KRS 161.623 is amended to read as follows:

(1) Effective July 1, 1982, and thereafter, a district board of education or other employer of members of the Teachers' Retirement System may compensate, at the time of retirement for service, an active teacher for unused sick-leave days in accordance with this section.

(2) Upon the member's application for service retirement, the employer shall certify the retiring member's unused accumulated sick-leave balance to the board of trustees of the Kentucky Teachers' Retirement System. The member's sick-leave balance, expressed in days, shall be divided by one hundred eighty-five (185) days to determine the amount of service credit that may be considered for addition to the member's retirement account for the purpose of determining the retirement allowance under KRS 161.620. Such sick-leave credit shall not be used for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 161.600.

(3) The board shall compute the cost to the retirement system of the sick-leave credit for each retiring member and shall bill the last employer of the retiring member for such cost. The employer shall pay the cost of such service credit to the retirement system within fifteen (15) days after receiving notification of the cost from the board.

(4) Retiring members who receive service credit under this section shall not be eligible to receive compensation for accrued sick leave under KRS 161.155(9) or any other statutory provision.

(5) Employer participation is optional and the employer may opt to purchase less service credit than the member is eligible to receive provided the same percentage of reduction is made applicable to all retiring members of the employer during a school fiscal year.

(6) The board of trustees shall formulate and adopt necessary rules and regulations for the administration of the foregoing provisions.

(7) Payments to the retirement system for service credit obtained under this section or for compensation credit obtained under KRS 161.155(9) shall be based on the full actuarial cost as defined in subsection (22) of Section 5 of this Act.

Section 20. KRS 161.655 is amended to read as follows:

(1) Effective July 1, ***2000***~~[1998]~~, upon the death of a member retired for service or disability, a death benefit of ***five thousand dollars ($5,000)***~~[three thousand dollars ($3,000)]~~ shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Upon the death of an active contributing member, a death benefit of two thousand dollars ($2,000) shall be paid to the member's estate or to a party designated by the member on a form prescribed by the retirement system. Application for the death benefit shall be made to the Teachers' Retirement System together with acceptable evidence of death and eligibility. The reciprocal provisions of KRS 61.680(2)(a) shall not apply to the payment of death benefits under this section.

(2) Suit or civil action shall not be required for the collection of the death benefit provided for by this section, but nothing in this section shall prevent the maintenance of suit or civil action against the beneficiary or legal representative receiving the death benefit.

Section 21. KRS 161.675 is amended to read as follows:

(1) ***The board of trustees shall arrange by appropriate contract or on a self-insured basis to provide a broad program of group hospital and medical insurance for present and future eligible recipients of a retirement allowance from the Teachers' Retirement System. The board of trustees may also arrange to provide health insurance coverage by health maintenance organizations as defined in KRS 18A.225 as an alternative to group hospital and medical insurance for persons eligible for hospital and medical benefits under this section. The board of trustees may authorize present and future eligible recipients of a retirement allowance from the Teachers' Retirement System who are less than age sixty-five (65), to be included in the state-sponsored health insurance that is provided to active teachers and state employees under KRS 18A.225***~~[(a) The board of trustees shall enter into contracts with insurance carriers or other health care providers for the purpose of providing a program of hospital and medical insurance coverage to members who are age sixty-five (65) or older and retired for service.~~

~~(b) The board of trustees may enter into contracts with insurance carriers or other health providers for the purpose of providing a broad program of hospital and medical insurance coverage to members below age sixty-five (65) who are retired for service or disability and to the surviving spouse of deceased members who are eligible to receive the member's retirement benefits as provided in KRS 161.525.~~

~~(c) The board of trustees may offer, on a cost basis, coverage of spouses and dependents not eligible for regular coverage]~~.

(2) The coverage provided shall be as set forth in the contracts and the administrative regulations of the board of trustees. The board of trustees may change the levels of coverage ***and eligibility conditions*** to meet the changing needs of the annuitants and when necessary to contain the expenses of the insurance program within the funds available to finance the insurance program. The contracts and administrative regulations shall provide for, but not be limited to, hospital room and board, surgical procedures, doctors' care in the hospital, and miscellaneous hospital costs. A retiree whose effective date of retirement is July 1, 1974, and thereafter, must have a minimum of five (5) years creditable Kentucky service in the Teachers' Retirement System or of combined service in the Kentucky Employees Retirement System, of which at least two (2) years was creditable service under KRS~~[161.510 and]~~ 161.607(2), to qualify for the coverage. The board of trustees shall offer coverage to the disabled child of a retired member regardless of the disabled child's age if the retired member pays the entire premium for the disabled child's coverage. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(3) ***All expenses for benefits under this section shall be paid from the funding provisions contained in subsection (5) of Section 8 of this Act, premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute.***

(4) (a) The board of trustees shall determine the amount of health insurance supplement payments that the Teachers' Retirement System will provide to assist eligible recipients of a retirement allowance in paying the cost of their health insurance, based on the funds available in the medical insurance fund. The board of trustees shall establish the maximum monthly amounts of health insurance supplement payments that will be made by the retirement system for eligible recipients of a retirement allowance. The board of trustees shall annually establish the percentage of the maximum monthly health insurance supplement payment that will be made, based on age and years of service credit of eligible recipients of a retirement allowance. Monthly health insurance supplement payments made by the retirement system may not exceed the amount of the single coverage insurance premium chosen by the eligible recipients of a retirement allowance. In order to qualify for health insurance supplements made by the retirement system, the recipient of a supplement payment must agree to pay the difference between the insurance premium and the applicable supplement payment, by payroll deduction from his retirement allowance, or by a payment method approved by the retirement system.

(b) The board of trustees may offer, on a full-cost basis, health care insurance coverage provided by the retirement system to spouses and dependents of eligible retirees not eligible for regular coverage. Recipients of a retirement

allowance from the retirement system must agree to pay the cost of this coverage by payroll deduction from their retirement allowance or by a payment method approved by the retirement system.

(c) The board of trustees shall offer, on a full-cost basis, health insurance coverage provided by the retirement system to the disabled child of a retired member, regardless of the age of the disabled child. A child shall be considered disabled for purposes of this section if the child has been determined to be eligible for Federal Social Security disability benefits.

(5) The board of trustees is empowered to require the annuitant and the annuitant's spouse to pay a premium charge to assist in the financing of the hospital and medical insurance program. The board of trustees is empowered to pay the expenses for insurance coverage from the medical insurance fund, from the premium charges received from the annuitants and the spouses, and from funds that may be appropriated or allocated by statute. The board may provide insurance coverage by making payment to insurance carriers including health insurance plans that are available to active and retired state employees and active teachers, institutions, and individuals for services performed, or the board of trustees may elect to provide insurance on a "self-insurance" basis or a combination of these provisions.

(6) The board of trustees may approve health insurance supplement payments to eligible retirees or recipients who are less than sixty-five (65) years of age, as reimbursement for hospital and medical insurance premiums made by retirees for their individual coverage. Eligible retirees or recipients are those retirees or recipients who are not eligible for Medicare and who do not reside in Kentucky or in an area outside of Kentucky where comparable coverage is available. The reimbursement payments shall not exceed the minimum supplement payment that would have been made had the retiree lived in Kentucky. Eligible retirees or recipients shall submit proof of payment to the retirement system for hospital and medical insurance that they have obtained. Reimbursement payments shall be made on a quarterly basis.

(7)[~~(4)~~]Contracts negotiated may include the provision that a stated amount of hospital cost or period of hospitalization shall incur no obligation on the part of the insurance carrier or the retirement system.

(8)[~~(5)~~]The board of trustees is empowered to promulgate administrative regulations to assure efficient operation of the hospital and medical insurance program.

(9)[~~(6)~~]Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient.

Section 22. The following KRS section is repealed:

161.510 Prior service allowed new members.

Section 23. Whereas, retirement annuity adjustments are implemented at the beginning of the fiscal year, an emergency is declared to exist, and this Act takes effect July 1, 2000.

HCR 88, A CONCURRENT RESOLUTION directing a study of the issues of the adequate preparation of elementary and secondary school students for promotion to higher grades, the establishment of appropriate educational criteria for entrance into higher grades, and the remediation rates of students entering postsecondary educational institutions.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has established that public schools shall expect a high level of achievement of all students, and shall develop their students' ability to apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies, and practical living studies to situations they will encounter throughout their lives; and

WHEREAS, the ability to apply those concepts and principles is predicated on a student's accumulation of knowledge and the development of critical thinking skills over the course of time; and

WHEREAS, a student who is unprepared for the subject matter presented to him or her in the classroom will be unable to achieve at high levels and is more likely to lack academic motivation; and

WHEREAS, low achieving students are more likely to drop out of school prior to graduation; and

WHEREAS, over thirty-eight percent (38%) of first-time students enrolled in a Kentucky public university in the fall of 1997 required remediation in one or more subjects in order to be adequately prepared for college-level work; and

WHEREAS, the practice of promoting students to a higher grade before they have gained sufficient knowledge and skills to succeed, exacerbates the problem of low student achievement by expecting students to learn subject matter for which they are unprepared; and

WHEREAS, developing a process to assure the level of educational preparedness of students entering grades five, nine, and twelve is a possible way to assist students to achieve academic success, and thereby, success throughout their lives;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Education, Assessment, and Accountability Review Subcommittee shall conduct a study of the issue of the adequate preparation of elementary and secondary school students for promotion to higher grades, and investigate the appropriateness, feasibility, and effectiveness of establishing specific educational criteria for entrance into grades five, nine, and twelve. As part of its study, the subcommittee shall review information regarding the level of remediation required by high school graduates from Kentucky upon entry into postsecondary educational institutions.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a completion date.

The Committee on Local Government reported **HB 522,** with Committee Substitute attached thereto, **HB 584,** with Committee Substitute attached thereto, **HB 650, HB 656,** with Committee Substitute attached thereto, and **SB 14** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 522, AN ACT relating to planning personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 100 IS CREATED TO READ AS FOLLOWS:

All members of a planning commission appointed under Section 3 of this Act, and members of the board of zoning adjustment, appointed under KRS 100.217, shall conform to the ethics requirements of KRS 65.003 except that the members of the planning commission and the members of the board of zoning adjustment shall not be required to disclose their personal finances. The city, county, urban-county, or charter county government shall incorporate members of the planning commission and members of the board of zoning adjustment within its adopted ethics code.

Section 2. KRS 100.137 is amended to read as follows:

(1) Counties with a population of 300,000 or more inhabitants shall be a planning unit and shall have a planning commission which commission shall be composed of three (3) members, who are nonresidents of the largest city of the county, appointed by the county judge/executive of such county; three (3) members who are residents of the largest city of the county appointed by the mayor of that city; and the mayor of the largest city, or his designee; the county judge/executive, or his designee; the director of works of the largest city in the county, and the county road engineer. The county judge/executive and the mayor together shall ensure that three (3) of the six (6) appointees are citizens who have no direct***, or indirect,*** financial interest in the land development and construction industry. If the commission appoints a citizen member to fill a vacancy, the commission shall ensure that the balance is maintained. ***In addition to the requirements set out in Section 1 of this Act,*** all ten (10) members of the planning commission shall be required to disclose any personal or family commercial interest relevant to land use, new development supply, or new development construction. The disclosure shall be a written, signed statement of the general nature of the member's interest. The disclosure shall be filed with the commission's records under KRS 100.167 and shall be available for public inspection during regular business hours. A member shall not vote on an issue in which the member or member's family has an interest. The willful failure of a member to disclose an interest, or a member's voting on an issue in which the member or member's family has a known interest, shall subject the member to removal proceedings under KRS 100.157.

(2) In counties containing a city of the first class, all legislation implementing or amending the plan or amended plan which affects cities of the first through fourth classes shall be enacted by such cities and all other legislation implementing the plan or amended plan shall be enacted by the fiscal court.

(3) In all other counties the establishment of a planning unit is optional, but any planning unit established in other counties shall comply with the remaining provisions of this chapter.

Section 3. KRS 100.133 is amended to read as follows:

(1) Before a planning unit may engage in planning operations, a planning commission shall be appointed for the unit in conformance with an adopted agreement.

(2) A planning commission shall consist of at least five (5), but not more than twenty (20) members.

(3) The Governor shall have the privilege of appointing a member to the commission to which the capital city belongs in addition to the number of members specified for that planning commission.

(4) Where extraterritorial jurisdiction is exercised for subdivision regulations or other regulations, the county judge/executive of each affected county may appoint a member to the planning commission of the planning unit exercising such jurisdiction in addition to the number of members specified for that planning commission.

(5) At least two-thirds (2/3) of the members of every planning commission shall be citizen members. ***At least fifty percent (50%) of the members of the planning commission shall have no direct, or indirect, financial interest in the land development and construction industry.***

(6) A regional planning commission shall include at least one (1) citizen member from each joint planning unit who is also a member of the joint planning commission.

(7) If one (1) city only joins with one (1) county, then each shall have equal representation.

(8) Except as provided in KRS 100.137, at least one (1) of the county representatives of the planning commission of a joint planning unit containing a county with an unincorporated area population exceeding one thousand (1,000) persons shall be a resident of the unincorporated area of that county.

(9) Whenever this chapter requires a city without its consent to belong to a joint planning unit, then KRS 100.137 shall apply.

SECTION 4. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Planning Professional and Planning Commissioner Training Panel, referred to in this section and Section 5 of this Act as "the panel," to certify initial training programs for planning commissioners and continuing education programs for planning professionals and planning commissioners in Kentucky. The panel shall be attached to the Department for Local Government for administrative purposes.

(2) The five (5) member panel shall be appointed by the Governor from local elected officials in counties or cities that have adopted the provisions of KRS Chapter 100. The Governor shall designate the members to serve initial terms as follows:

(a) Two (2) members shall serve in office for four (4) years;

(b) One (1) member shall serve in office for three (3) years;

(c) One (1) member shall serve in office for two (2) years; and

(d) One (1) member shall serve in office for one (1) year.

(3) When those initial terms expire, members shall serve in office for four (4) year terms.

(4) Any vacancy in an unexpired term shall be filled for the unexpired portion of the term by the Governor.

(5) Members of the panel shall receive no compensation, but shall be reimbursed for actual expenses incurred in accordance with Kentucky statutes and administrative regulations while performing official duties.

(6) The panel shall select one (1) of its members as chair and another as vice chair.

(7) Staff services for the panel shall be performed, insofar as practicable, by personnel of the Department for Local Government.

SECTION 5. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) (a) The panel shall certify initial training programs and continuing education programs for planning professionals and planning commissioners that shall address at a minimum:

1. Hydrology and floodplains;

2. Geology, including karst features;

3. Water quality;

4. Air quality;

5. Hydric soils;

6. Land use planning;

7. Transportation, including impacts on scenic areas;

8. Community facilities;

9. Ethics; and

10. Other relevant topics the department may find important to the duties of the planning professionals and planning commissioners.

(b) As used in this subsection, "scenic" denotes the composition of features that possess significant aesthetic, natural, or visual qualities in settings that are measured by the quality of being memorable, their unity, and their distinctiveness of visual impression.

(2) Sponsors of the programs shall obtain from the panel certification for their respective education programs. A sponsor shall mean any person, school, association, company, corporation, or group who wishes to develop and present a training program. The panel shall certify training programs that meet the criteria established in subsection (1) of this section.

(3) Sponsors seeking accreditation shall submit a program schedule and outline to the panel no less than thirty (30) days prior to the date of the beginning of the program that shall include the following information:

(a) The name of the program;

(b) The name of the sponsoring organization;

(c) The objectives of the program;

(d) The number of hours over which the program will be presented and the dates it will be presented;

(e) The names of the instructors and speakers and their educational background and other relevant qualifications;

(f) The location at which the program will be presented; and

(g) The name and address of the person authorized to certify attendance at the program.

(4) The panel shall approve the program if the following criteria are met:

(a) The program is likely to contribute to the advancement and extension of professional knowledge of either planning professionals or planning commissioners, to whomever the program is geared;

(b) The speakers, lecturers, and others participating in the program are recognized by the panel to be qualified in their respective fields;

(c) The program is available to all who wish to participate; and

(d) Fees charged for the program are the same for nonmembers of any organization sponsoring the program. Any difference in fees charged to nonmembers, as opposed to members of a sponsoring organization, shall be reasonably and directly related to the sponsoring organization's expense in operating the program.

(5) The panel shall give written notification of the approval or disapproval of a program to the sponsor within forty-five (45) days after receipt of the proposed program schedule and outline. Any program approved by the panel shall be awarded an approval period by the panel, during which the sponsor may offer the program as many times as desired as long as the panel's standards are maintained. The panel shall state the number of hours credit recognized for completion of the program.

(6) Any change in a program after approval is granted shall be approved by the panel. Failure to do so shall be grounds for revocation of approval.

(7) The educational program may be monitored by a member of the panel or a person designated by the panel for that purpose.

(8) Sponsors shall provide for the maintenance of the program schedule and outline and attendance records of educational programs for at least two (2) years following completion of any program.

(9) Attendance at any continuing education program shall be certified to the panel upon a form provided by the Department for Local Government and shall be submitted by each planning commission member or planning professional after completion of the program. Each planning commission member or planning professional shall be responsible for having the forms signed by the sponsor of any program for which credit is claimed, certifying that the planning commission member or planning professional did attend the program for which credit is claimed. The panel shall not approve any claim for credit for attendance at a program unless the planning commission member or planning professional provides the signed certification of the sponsor stating that the planning commission member or planning professional did attend the program for which credit is claimed.

(10) The panel may maintain a list of sponsors providing programs to satisfy the education requirement for planning commission members or planning professionals. This information may be made available to any planning commission member or planning professional.

(11) The Department for Local Government shall promulgate administrative regulations in accordance with KRS Chapter 13A to effect the purposes of this section that shall cover at least:

(a) The number of hours of initial training new planning commission members shall be required to have in the areas specified in subsection (1) of this section which shall not exceed twelve (12) hours;

(b) The number of hours of continuing education planning commission members and planning professionals shall be required to take each year in the areas specified in subsection (1) of this section which shall not exceed six (6) hours; and

(c) Any other requirements for documentation or procedures to effect the purposes of this section.

(12) Once appointed, planning commissioners shall receive the initial training specified in subsection (11)(a) of this section and shall complete the number of hours of continuing education as provided for in subsection (11)(b) of this section. If a planning commissioner fails to complete the requisite number of hours within the time allotted, the planning commissioner shall be subject to removal from office according to the provisions of KRS 100.157.

(13) Once employed, a planning professional shall complete the number of hours of continuing education as provided for in subsection (11)(b) of this section. No city, county, urban-county or charter county, or any entity involved in local, regional, or state planning, shall employ a planning professional who fails to complete the requisite number of hours of continuing education each year.

The Committee Substitute No. 1 to **HB 522** is as follows:

HB 522, AN ACT relating to planning personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 147A IS CREATED TO READ AS FOLLOWS:

(1) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within one (1) year prior to appointment, or within one hundred twenty (120) days of appointment, attend a minimum of four (4) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within one (1) year prior to being employed, or within one hundred twenty (120) days of employment, attend a minimum of eight (8) hours of orientation training in one (1) or more of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission within one hundred forty (140) days of appointment or employment. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(2) (a) Each planning commissioner and board of adjustment member of a planning unit shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than eight (8) hours of continuing education in any of the subjects listed in subsection (4) of this section.

(b) Each planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants, shall, within each period of two (2) consecutive calendar years, starting at the date of the individual's appointment, attend no less than sixteen (16) hours, of continuing education in any of the subjects listed in subsection (4) of this section.

(c) Each of the individuals listed in paragraphs (a) and (b) of this subsection shall certify his or her attendance by a written statement filed with the secretary of his or her respective planning commission by December 31 of each calendar year. Each statement shall identify the date of each program attended, its subject matter, location, sponsors, and the time spent in each program.

(3) The planning commission or the legislative body of the city, county, urban-county, or charter county government in which the planning commission has jurisdiction or, in the case of a joint planning unit, has representation in, shall be responsible for providing training as required by subsections (1) and (2) of this section or for providing funding to each planning commissioner, board of adjustment member, full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants so that each individual may obtain training as required by subsections (1) and (2) of this section from other sources.

(4) The subjects for the education required by subsections (1) and (2) of this section shall include, but not be limited to, the following issues: land use planning; zoning; floodplains; transportation; community facilities; ethics; public utilities; wireless telecommunications facilities; parliamentary procedure; public hearing procedure; administrative law; economic development; housing; public buildings; building construction; land subdivision; and power and duties of the board of adjustment. Other topics reasonably related to the duties of planning officials or planning professionals may be approved by majority vote of the planning commission prior to December 31 of the year for which credit is sought.

(5) Each local planning commission shall keep in its official public records originals of all statements and the written documentation of attendance required in subsection (6) of this section filed with the secretary of the planning commission pursuant to paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section for three (3) years after the calendar year in which each statement and appurtenant written documentation is filed.

(6) Each planning commissioner, board of adjustment member, full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants shall be responsible for obtaining written documentation signed by a representative of the sponsor of any continuing education course for which credit is claimed, acknowledging the fact that the individual attended the program for which credit is claimed. That documentation shall be filed with the secretary of the planning commission as attachments to the statements required by paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section.

(7) If a planning commissioner or board of adjustment member fails to:

(a) Complete the requisite number of hours of orientation training and continuing education within the time allotted under subsections (1) and (2) of this section;

(b) File the statement required by paragraph (c) of subsection (1) and paragraph (c) of subsection (2) of this section; or

(c) File the documentation required by subsection (6) of this section;

the planning commissioner shall be subject to removal from office according to the provisions of KRS 100.157, and the board of adjustment member shall be subject to removal according to the provisions of KRS 100.217.

(8) ***No city, county, urban-county, charter county, planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100, shall employ a planning professional, zoning administrator, administrative official, or a planning professional's deputy or assistant, who fails to complete the requisite number of hours of orientation and continuing education required by subsections (1) and (2) of this section in the capacity of a planning professional, zoning administrator, administrative official, or planning professional's deputy or assistant.***

HB 584, AN ACT relating to the transient room tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first ***or second*** class may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(5) to finance in part the expansion ***or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism***[~~of a government-owned facility~~] located in the central business district of the city of the first ***or second*** class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

The Committee Substitute No. 1 to **HB 584** is as follows:

HB 584, AN ACT relating to the transient room tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 91A.392 is amended to read as follows:

(1) In addition to the three percent (3%) transient room tax authorized by KRS 91A.390 and the one percent (1%) transient room tax authorized by KRS 153.440, the fiscal court in a county containing a city of the first ***or second*** class may levy an additional transient room tax not to exceed two percent (2%) of the rent for every occupancy of a suite, room, or rooms charged by all persons, companies, corporations, or other similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or similar accommodations businesses.

(2) All money collected from the tax authorized by this section shall be applied toward the retirement of bonds issued pursuant to KRS 91A.390(5) to finance in part the expansion ***or construction or operation of a governmental or nonprofit convention center or fine arts center useful to the promotion of tourism***[~~of a government-owned facility~~] located in the central business district of the city of the first ***or second*** class located in the county.

(3) After the retirement of the bonds provided for in this section, the additional transient room tax levied pursuant to this section shall be void, and the fiscal court shall take action to repeal the ordinance which levied the tax.

Section 2. KRS 91A.390 is amended to read as follows:

(1) The commission shall annually submit to the local governing body or bodies which established it a request for funds for the operation of the commission. The local governing body or bodies shall include the commission in the annual budget and shall provide funds for the operation of the commission by imposing a transient room tax, not to exceed three percent (3%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. In addition to the three percent (3%), the local governing body may impose a special transient room tax not to exceed one percent (1%) for the sole purpose of meeting the operating expenses of a convention center. A transient room tax imposed by an urban-county government shall not exceed four percent (4%) of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations, or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations businesses. Transient room taxes shall not apply to the rental or leasing of an apartment supplied by an individual or business that regularly holds itself out as exclusively providing apartments. Apartment means a room or set of rooms, in an apartment building, fitted especially with a kitchen and usually leased as a dwelling for a minimum period of thirty (30) days or more. The local governing body or bodies that have established a commission by joint or separate action, shall enact an ordinance for the collection and the enforcement of the tax measure enacted pursuant to this section.

(2) A portion of the money collected from the imposition of this tax, as determined by the tax levying body, may be used to

finance the cost of acquisition, construction, operation, and maintenance of facilities useful in the attraction and promotion of tourist and convention business and shall include athletic stadiums. The balance of the money collected from the imposition of this tax shall be used for the purposes set forth in KRS 91A.350. Proceeds of the tax shall not be used as a subsidy in any form to any hotel, motel, or restaurant. Money not expended by the commission during any fiscal year shall be used to make up a part of the commission's budget for its next fiscal year.

(3) An urban-county government may impose an additional tax, not to exceed one percent (1%) of the room rents included in this subsection. This additional tax shall be collected and administered in the same manner as the regular tax with the exception that this additional tax shall be used for the purpose of funding the purchase of development rights program provided for under KRS 67A.845.

(4) ***Local governing bodies which have formed multicounty tourist and convention commissions as provided by KRS 91A.350(3) may impose an additional tax, not to exceed one percent (1%) of the room rents. This additional tax, if approved by each governing body, shall be collected and administered in the same manner as the regular tax, with the exception that this additional tax shall be used for the purpose of funding regional efforts relating to the promotion of tourist and convention business and convention centers.***

(5) The commission, with the approval of the tax levying body, may borrow money to pay its obligations that cannot be paid at maturity out of current revenue from the transient room tax, but shall not borrow a sum greater than can be repaid out of the revenue anticipated from the transient room tax during the year the money is borrowed. The commission may pledge its securities for the repayment of any sum borrowed.

(6)[~~(5)~~]The fiscal court or legislative body of a city establishing a commission pursuant to subsection (1) or (2) of KRS 91A.350 and, in its own name, a commission established pursuant to subsection (1) of KRS 91A.350 is authorized and empowered to issue revenue bonds pursuant to KRS Chapter 58 for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county or city. All bonds sold under the authority of this section shall be subject to competitive bidding as provided by law, and shall bear interest at a rate not to exceed that established for bonds issued for public projects under KRS Chapter 58.

(7)[~~(6)~~]A commission established pursuant to subsection (3) of KRS 91A.350 is authorized and empowered to issue revenue bonds in its own name, payable solely from its income and revenue, pursuant to KRS Chapter 58 for revenue bonds for public projects. Bonds issued for the purposes of KRS 91A.350 to 91A.390, may be used to pay any cost for the acquisition of real estate, the construction of buildings and appurtenances, the preparation of plans and specifications, and legal and other services incidental to the project or to the issuance of the bonds. The payment of the bonds, with interest, may be secured by a pledge of and a first lien on all of the receipts and revenue derived, or to be derived, from the rental or operation of the property involved. Bond and interest obligations issued pursuant to this section shall not constitute an indebtedness of the county. All bonds sold pursuant to this section shall be subject to competitive bidding as provided by law, and shall not bear interest at rates exceeding those for bonds issued for public projects under KRS Chapter 58.

HB 650, AN ACT changing the classification of the City of Independence, in Kenton County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Independence, in Kenton County, is such as to justify its being classified as a city of the third class;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Independence, in Kenton County, is transferred from the fifth to the third class of cities.

HB 656, AN ACT relating to the levy of a transient room tax by urban county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.450 is amended to read as follows:

(1) In addition to the four percent (4%) transient room tax authorized by KRS 91A.390 an urban-county government may levy an additional transient room tax not to exceed ***two percent (2%)***[~~one percent (1%)~~] of the rent for every occupancy of a suite, room*,* or rooms, charged by all persons, companies, corporations or other like or similar persons, groups*,* or organizations doing business as motor courts, motels, hotels, inns*,* or like or similar accommodations' businesses.

(2) All additional moneys collected from the tax authorized by subsection (1) of this section shall be applied toward the retirement of bonds used to finance the Lexington Center Corporation ***and to defray the operating costs of the Lexington Center Corporation***.

[~~(3) After the retirement of the bonds provided for in subsection (1) of this section the additional transient room tax levied by that subsection shall be null and void.~~]

The Committee Substitute No. 1 to **HB 656** is as follows:

HB 656, AN ACT relating to the levy of a transient room tax by urban-county governments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 153.450 is amended to read as follows:

(1) In addition to the four percent (4%) transient room tax authorized by KRS 91A.390 an urban-county government may levy an additional transient room tax not to exceed ***two percent (2%)***[~~one percent (1%)~~] of the rent for every occupancy of a suite, room, or rooms, charged by all persons, companies, corporations or other like or similar persons, groups, or organizations doing business as motor courts, motels, hotels, inns, or like or similar accommodations' businesses.

(2) All additional moneys collected from the tax authorized by subsection (1) of this section shall be applied toward the retirement of bonds used to finance ***a nonprofit corporation which is created for the funding, construction, and management of a convention center in an urban-county, and to defray the operating costs of the nonprofit corporation***[~~the Lexington Center Corporation~~].

[~~(3) After the retirement of the bonds provided for in subsection (1) of this section the additional transient room tax levied by that subsection shall be null and void.~~]

SB 14, AN ACT relating to regulating emissions from mobile sources of air pollutants.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 77.115 is amended to read as follows:

(1) The air pollution control board is hereby declared to be the governing body of an air pollution control district, and shall manage and control all the affairs and property of such district, and shall exercise all the powers of such district not otherwise delegated by this chapter. In a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall assume all of the duties and responsibilities of the hearing board appointed under KRS 77.105, and the hearing board shall be abolished.

(2) Notwithstanding any provision of this chapter to the contrary, in a county where a city-county compact under KRS 79.310 to 79.330 is in effect, the air pollution control board shall have regulatory authority for the district, and the city or county, as appropriate, shall exercise funding and administrative control of the district.

(3) If an air pollution control board finds the need for and requires the implementation of a vehicle exhaust testing program, the program shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.

Section 2. KRS 77.170 is amended to read as follows:

(1) ***Except for subsection (3) of this section,*** the General Assembly does not, by the provisions of this chapter, intend to occupy the field. ***Except for subsection (3) of this section,*** the provisions of this chapter do not prohibit the enactment or enforcement of any local ordinance stricter than the provisions of KRS 77.150 to 77.180 and stricter than the rules and regulations adopted pursuant to KRS 77.180 to 77.240, which local ordinance prohibits, regulates, or controls air pollution.

(2) ***Except for subsection (3) of this section,*** the provisions of this chapter do not supersede any such local ordinance. If it should be held that the provisions of this chapter supersede the provisions of any local ordinance, such suspension shall not bar the prosecution or punishment of any violation of such ordinance which violation was committed when such ordinance, was in full force and effect.

(3) Local ordinances prohibiting, regulating, or controlling emissions from mobile sources of air pollutants shall prohibit emissions of, regulate, or control only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765.

Section 3. KRS 224.20-130 is amended to read as follows:

(1) Each county which pursuant to the provisions of KRS Chapter 77 has established or will establish a local air pollution control program, shall submit a synopsis of said program together with such standards and procedures as are enacted by regulations to the cabinet for approval within a period of ninety (90) days from the enactment hereof, or a period of ninety (90) days of the establishment of said local program.

(2) If, after review by the cabinet, and a public hearing held in the county activating a district, the cabinet determines that the air pollution control district has adopted standards and procedures and has the necessary staff to implement the program in a manner consistent with the objectives of this chapter, concurrent jurisdiction may be granted the air pollution control district for the administration and enforcement of the aforesaid statutes. ***Except for the limit on authority established by***

subsection (1) of Section 3 of this Act, the air pollution control district shall adopt no regulation or standard less stringent than a regulation or standard adopted by the cabinet, and shall submit prepared regulations and standards to the cabinet for prior concurrence. Periodic reports shall be made to the cabinet and to the commission as shall be provided for by regulation. If the cabinet shall determine, after hearing with notice, that a district program is not being administered in accordance with the statutes and regulations of the cabinet or the district, the grant of authority may be suspended, revoked, or modified by order of the cabinet. ***The enactment or enforcement of a regulation by an air pollution control district that finds the need for and requires the implementation of a vehicle exhaust testing program, if the program is not limited to prohibiting the emissions of, regulating, or controlling only mobile sources of air pollutants regulated under the state program established in accordance with KRS 224.20-710 to 224.20-765, shall cause an automatic revocation of an existing grant of authority or an automatic denial of a requested grant of authority.***

(3) This provision shall in no way diminish the authority of the cabinet to administer and enforce the provisions of this chapter.

(4) The cabinet shall be empowered to enforce any and all regulations or standards in any district when concurrent jurisdiction is granted.

(5) When enforcement actions are taken by the district, the local Commonwealth's, county, and city prosecuting attorneys, instead of the Attorney General shall prosecute such actions.

The Committee on Banking and Insurance reported **HB 354,** with Committee Substitute attached thereto, **HB 415,** with Committee Amendment attached thereto, **HB 551,** with Committee Amendment attached thereto, **HB 608, HB 619, HB 662,** and **HB 697** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 354, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary rate information" is any manual or plan of rates, classification, rating schedule, minimum premium, policy fee, rating rule, and any other similar information needed to determine the applicable rate in effect or to be in effect.

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any ***other***[~~statistical~~] data relied on by the filer, descriptions of methods used in making the rates, and any other[~~similar~~] information required to be filed by the commissioner.

(4) "Personal risks" ***means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other***[~~are those covered by~~] property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established[~~on an ad hoc basis~~] to provide insurance coverage for a[~~commercial~~] risk pursuant to which two (2) or more insurers ***jointly***[~~separately~~] contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any ***entity, including its affiliates or subsidiaries,***[~~organization~~] which either has two (2) or more member insurers or is controlled ***either directly or indirectly*** by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer ***for purposes of this definition***.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "~~[Loss]~~Trending" is any~~[appropriate]~~ procedure for projecting developed losses to the average date of loss***, or premiums or exposures to the average date of writing,*** for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to~~[unallocated loss adjustment expenses,]~~ acquisition, field supervision, and collection expenses, general expenses, and ***premium*** taxes, licenses, and fees.~~[Expenses do not include those directly allocated by the insurer to the settlement of specific losses.]~~

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" ***means the loss cost per unit of exposure excluding all loss adjustment expenses***~~[is the loss cost per unit of exposure plus the loss adjustment expense directly allocated to the settlement of specific losses]~~.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Contingencies" means a provision for the variation of losses in prospective rates.

(18) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those which are anticipated to provide actual ultimate loss (including loss adjustment expense) payments.

(19) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(20) "Form provider" means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(21) "Loss adjustment expenses" means the expenses incurred by the insurer in the course of settling claims.

(22) "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from models, if approved by the commissioner when historical data is not sufficient, and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time.

(23) "Rate" means that cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium.

(24) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the Special Fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the Revenue Cabinet surcharge imposed by KRS Chapter 136.

(25) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

(26) "Underwriting guideline" means underwriting information regarding the insurer's standards for, including but not limited to, acceptance, declination, renewal, nonrenewal, cancellation, termination, binding, or selection of risks. These records are proprietary in nature and they shall not be subject to disclosure under the Kentucky Open Records Act.

Section 2. KRS 304.13-021 is amended to read as follows:

KRS 304.13-011 to 304.13-161 apply to all types of insurance written on risks in this state by any insurer authorized under this chapter to do business in this state, except:

(1) Life insurance;

(2) Annuities;

(3) ***Wet***~~[Ocean]~~ marine ***and transportation*** insurance;

(4) Accident and health insurance;

(5) Reinsurance;

(6) Assessment or cooperative companies operating under the provisions of KRS Chapter 299;~~[and]~~

(7) Individual and group workers' compensation self-insurers***;***

(8) Title insurance; and

(9) Liability self-insurance groups.

Section 3. KRS 304.13-031 is amended to read as follows:

Rates shall be made in accordance with the following provisions:

(1) Rates shall not be excessive, inadequate, or unfairly discriminatory.

(a) A rate is excessive if it is likely to produce a profit that is unreasonably high for the insurance provided or if expenses are unreasonably high in relation to services rendered.

(b) A rate is not inadequate unless the rate is clearly insufficient to sustain projected losses, expenses, and special assessments in the class of business to which it applies and the use of the rate has substantially lessened competition or tended to create a monopoly in any market or, if continued, will have the effect of substantially lessening competition or will have the tendency to create a monopoly in any market.

(c) Unfair discrimination exists if, after allowing for practical limitations, price differentials fail to reflect equitably the differences in expected losses and expenses. A rate is not unfairly discriminatory if it is averaged broadly among persons insured under a group, franchise, or blanket policy or a mass marketed plan. As used in this paragraph, a mass marketed plan means a method of selling insurance where:

1. The insurance is offered to employees of particular employers, or to members of particular associations or organizations, or to persons grouped in other ways, except groupings formed principally for the purpose of obtaining such insurance; and

2. The employer, association, or other organization, if any, has agreed to, or otherwise affiliated itself with, the sale of such insurance to its employees or members.

(d) In determining whether rates comply with the excessiveness standard set forth in paragraph (a) of this subsection, the inadequacy standards set forth in paragraph (b) of this subsection, and the unfair discrimination standard under paragraph (c) of this subsection, the following criteria shall apply:

~~[(1) In a noncompetitive market, rates shall be made in accordance with the following provisions:~~

~~(a) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;~~

~~(b) Rates shall not be excessive, inadequate or unfairly discriminatory;]~~

1.~~[(c)]~~ Due consideration shall be given:

a.~~[1.]~~ To past and prospective loss experience within and outside this state;

b.~~[2.]~~ To the conflagration and catastrophe hazards;

c.~~[3.]~~ To a reasonable margin for underwriting profit and contingencies;

d.~~[4.]~~ To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

e.~~[5.]~~ To past and prospective expenses both countywide and those specially applicable to this state;

f.~~[6.]~~ To all other relevant factors within and outside this state; and

g.~~[7.]~~ In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not less than the most recent three (3) year period for which such experience is available;

2.~~[(d)]~~ The~~[systems of]~~ expense provisions included in the rates for use by any insurer or group of insurers ***shall***~~[may differ from those of other insurers or group of insurers to]~~ reflect the requirements of the operating methods of any such insurer or group ***and its anticipated expenses,*** with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

3.~~[(e)]~~ Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which ***can be demonstrated to***~~[may]~~ have a probable effect upon losses or expenses. ***No risk classification, however, may be based upon race, creed, national origin, or the religion of the insured.***

4. The rates may contain provision for contingencies and an allowance permitting a reasonable profit. In determining the reasonableness of the profit, consideration shall be given to all investment income attributable to the line of insurance.

(2) ***The commissioner may order an insurer to refund to policyholders or certificate holders any premium the commissioner determines to be excessive. The insurer may request a hearing on the refund, to be conducted in accordance with the provisions of this chapter and KRS Chapter 13B, within thirty (30) days of the receipt of the order,***

and the commissioner shall schedule that hearing within thirty (30) days of receipt of the request~~[Rates made in accordance with this section may be used subject to this subtitle]~~.

Section 4. KRS 304.13-041 is amended to read as follows:

(1) A competitive market for any line of insurance is presumed to exist unless the commissioner, after a hearing, determines that a reasonable degree of competition does not exist in the market for such line and issues an order to that effect. Such an order shall expire no later than one (1) year after it is issued***, unless the commissioner renews the rule after a hearing and issues a finding as to the continued lack of a reasonable degree of competition***. In determining whether a reasonable degree of competition exists, the commissioner shall consider all relevant information pertaining to the market and the ***practical*** opportunities available to consumers in the market to acquire pricing and other consumer information, and to compare and obtain insurance from competing insurers.

(2) ***In determining whether a competitive market exists pursuant to subsection (1) of this section,*** the commissioner shall monitor the degree of competition in this Commonwealth. In doing so, ***the commissioner shall***~~[he may]~~ utilize existing relevant information***, analytical systems, and other sources; cause or participate in the development of new relevant information, analytical systems, and other sources; or rely on some combination thereof***~~[, or he may develop new relevant information]~~. The activities may be conducted internally within the Department of Insurance, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner. The relevant information in determining the competitiveness of a specific market may include the ***size and*** number of insurers actively engaged in providing coverage, market shares, and changes in market shares***,***~~[and]~~ ease of entry ***and exit from a given market, underwriting restrictions, whether profitability for companies generally in the market segment is unreasonably high, availability of consumer information concerning the product and sales outlets or other sales mechanisms, and efforts of insurers to provide consumer information***.

SECTION 5. KRS 304.13-051 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) Every insurer shall file with the commissioner every manual, underwriting guideline, minimum premium, class rate, rating schedule or rating plan, and every other rating rule, and every modification of any of the foregoing which it proposes to use for commercial risks, as designated by the commissioner, and for all personal risks. An insurer may file its rates by either filing its final rates or by filing a loss cost multiplier and, if applicable, an expense constant to be applied to prospective loss costs that have been filed by an advisory organization on behalf of the insurer as permitted by Section 14 of this Act. Every such filing shall state the effective date and shall indicate the character and extent of the coverage contemplated.

(a) Rate filings for homeowners and personal automobile risks shall be accompanied by updated supplemental consumer information needed to publish the department's consumer guide. The commissioner shall prescribe by administrative regulation specifications for the consumer guide data.

(b) Any insurer which proposes to change its existing rates, manuals, or rating rules so as to effectively increase or decrease the rates for any classification of risk within any rating territory more than the rate impact threshold, as determined by administrative regulation promulgated by the commissioner, within a twelve (12) month period shall file all the rates and supplementary rating information which shall not become effective until approved by the commissioner. At the expiration of thirty (30) days, the rates shall be deemed approved unless prior thereto they have been affirmatively approved or disapproved by order of the commissioner. The commissioner may extend by not more than an additional thirty (30) day period within which the commissioner may affirmatively approve or disapprove the rates by giving notice to the insurer of the extension on or before the expiration of the initial thirty (30) day period.

(c) Every insurer shall certify that the filing complies with all of the applicable requirements of this chapter and administrative regulations promulgated under this chapter. An insurer filing a false or misleading certification that the filing complies with this chapter and administrative regulations shall be subject to administrative action including loss of its certificate of authority.

(2) Every insurer shall file or incorporate by reference to material which has been filed with or approved by the commissioner, at the same time as the filing of the rate, all supplementary rating and supporting information to be used in support of or in conjunction with a rate. The information furnished in support of a filing may include or consist of a reference to:

(a) The experience or judgment of the insurer or information filed by the advisory organization on behalf of the insurer as permitted by Section 14 of this Act;

(b) Its interpretation of any statistical data it relies upon;

(c) The experience of other insurers or advisory organizations; or

(d) Any other relevant factors.

(3) When a filing is not accompanied by the information upon which the insurer supports the filing, the commissioner may require the insurer to furnish the information upon which it supports its filing and, in that event, any applicable waiting period shall commence as of the date the information is furnished. Until the requested information is provided,

the filing shall not be considered complete or filed nor available for use by the insurer. If the requested information is not provided within a reasonable time period, the filing may be returned to the insurer as not filed and not available for use.

(4) After reviewing an insurer's filing, the commissioner may require that the insurer's rates be based upon the insurer's own loss, special assessment, and expense information. If the insurer's loss or allocated loss adjustment expense information is not actuarially credible, as determined by the commissioner, the insurer may use or supplement its experience with information filed with the commissioner by an advisory organization or statistical agent.

(5) Insurers utilizing the services of an advisory organization must provide with their rate filing, at the request of the commissioner, a description of the rationale for such use, including its own information and method of utilization of the advisory organization's information.

(6) The commissioner shall review filings as soon as reasonably possible after they have been made in order to determine whether they meet the requirements of this chapter.

(7) In a competitive market, every insurer shall file with the commissioner the information specified in subsection (1) of this section that it will use in this state for commercial risks, as designated by the commissioner, and for all personal risks. The rates and supplementary rating information shall be filed on or before the effective date. In a competitive market, if the commissioner finds, after a hearing, that an insurer's rates require closer supervision because of the insurer's financial condition or unfairly discriminatory rating practices, the insurer shall file with the commissioner at least thirty (30) days before the effective date all the rates and supplementary rating information and supporting information as prescribed by the commissioner. This waiting period may be extended by the commissioner for an additional period not to exceed thirty (30) days, if written notice is given within the waiting period to the filer that additional time is needed for the consideration of the filing. Upon application by the filer, the commissioner may authorize an earlier effective date.

(8) In a noncompetitive market, subject to the exception specified in subsection (9) of this section, each filing shall be on file for a waiting period of thirty (30) days before it becomes effective. This period may be extended by the commissioner for two (2) additional periods, each period not to exceed thirty (30) days, if written notice is given within this waiting period to the filer that additional time is needed for the consideration of the filing. Upon written application by the insurer, the commissioner may authorize a filing which has been reviewed to become effective before the expiration of the waiting period or any extension thereof. A filing shall be deemed to meet the requirements of this chapter unless disapproved by the commissioner within the waiting period or any extension thereof.

(9) Under administrative regulations as may be promulgated, the commissioner may, by written order, suspend or modify the requirement of filing as to any kind of insurance, subdivision or combination thereof, or as to classes of risks. The commissioner may make any examination deemed advisable to ascertain whether any rates affected by the order meet the standards set forth in Section 3 of this Act.

(10) Upon the written application of the insurer and insured, stating its reasons therefor, filed with and approved by the commissioner, a rate in excess of that provided by a filing otherwise applicable may be used on any specific risk.

(11) No insurer shall make or issue a contract or policy except in accordance with the filings which have been approved and are in effect for said insurer as provided in this subtitle or in accordance with subsections (9) and (10) of this section.

(12) A rate for a residual market in which insurers are mandated by law to participate shall not become effective until approved by the commissioner.

Section 6. KRS 304.13-057 is amended to read as follows:

(1) ***Rates subject to this subtitle shall be based on Kentucky experience when actuarially credible.***

(2) Every insurer shall provide to the commissioner information to demonstrate to what extent the insurer's rates are based upon its Kentucky experience.

(3)[~~(2)~~]Every insurer shall provide to the commissioner information to demonstrate its compliance with the requirements contained in KRS 304.13-410 which requires workers' compensation rates to be based on the net experience of an employer policyholder who has selected a deductible policy as authorized by KRS 304.13-400.

Section 7. KRS 304.13-061 is amended to read as follows:

(1) [~~The information furnished in support of a filing may include:~~

~~(a) The experience or judgment of the insurer;~~

~~(b) The insurer's interpretation of any statistical data it relies on;~~

~~(c) The experience of other insurers; and~~

~~(d) Any other relevant factors.~~

~~(2)~~] The commissioner may adopt reasonable rules for use by insurers to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of KRS 304.13-011 to 304.13-161***, and the effectuation of its purposes. The commissioner may adopt reasonable rules to assure that*** *the experience of all insurers is made available at least annually in such form and detail as is necessary to aid in determining whether rating systems comply with the standards set forth in Section 3 of this Act*. [~~However, except for workers' compensation reports, no insurer shall be required to report its loss experience on a classification basis that is inconsistent with the rating system filed by it.~~] The commissioner may designate one (1) or more advisory organizations *or statistical agents* to assist him in gathering, compiling, and reporting such information*, which shall be a matter of public record. The scope of these rules may include the data which must be reported by insurers, definitions of data elements, the timing and frequency of statistical reporting by insurers, data quality standards, data edit and audit requirements, data retention requirements, reports to be generated by advisory organizations or statistical agents to fulfill the requirements of this section, and the timing of such reports*.[~~ Insurers shall record and report their workers' compensation experience on a classification basis consistent with that of an advisory organization designated by the commissioner.~~]

(2) Reasonable rules and plans may be adopted by the commissioner for the interchange of data necessary for the application of rating plans.

(3) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer, advisory organization, and statistical agent may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems and the collection of statistical data.

SECTION 8. KRS 304.13-071 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) If the commissioner finds that any filing does not meet the requirements of this chapter, written notice of disapproval shall be sent to the filer, specifying therein in what respects the filing fails to meet the requirements of this chapter. If a filing is disapproved by the commissioner, the filer may request a hearing on the disapproval within thirty (30) days, and the commissioner shall schedule that hearing within thirty (30) days of the receipt of the request. The hearing shall be conducted in accordance with the provisions of this chapter and KRS Chapter 13B. The filer bears the burden of proving compliance with the standards established by this chapter.

(2) If at any time after a rate has been approved for filings made in a competitive market, the commissioner finds that the rate no longer meets the requirements of this chapter, the commissioner may order the discontinuance of use of the rate. The order of discontinuance may be issued after a hearing, to be conducted in accordance with the provisions of this chapter and KRS Chapter 13B. The order must be in writing and state the grounds for the order. It shall also state when, within a reasonable time thereafter, the filing will be deemed no longer effective. The order shall not affect any contract or policy made or issued prior to the expiration of the period set forth in the order. The commissioner's order may include a provision for a premium adjustment for contracts or policies made or issued after the effective date of the order.

(3) Whenever an insurer has no legally effective rates as a result of the commissioner's disapproval of rates or other act, the commissioner shall, on request of the insurer, specify interim rates for the insurer that are high enough to protect the interest of all parties and may order that a specified portion of the premiums be placed in an escrow account approved by the commissioner. When the new rates become legally effective, the commissioner shall order the escrowed funds or any overcharge in the interim rates to be distributed appropriately, except that refunds to policyholders that are de minimis shall not be required.

Section 9. KRS 304.13-081 is amended to read as follows:

[~~(1) All rates, supplementary rate information, and supporting information filed under KRS 304.13-011 to 304.13-161 shall be open to public inspection at any reasonable time. Copies may be obtained by any person on request and on payment of a charge specified in Subtitle 4 of this chapter.~~

~~(2)~~]The commissioner shall *utilize,*[~~designate certain types of personal risks coverages for which the commissioner shall~~] develop*, or cause to be developed* a consumer information system that will *provide and* disseminate price and other relevant information on a readily available basis *to purchasers of homeowners, private passenger nonfleet automobile, or property insurance for personal, family, or household needs. The commissioner may utilize, develop, or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance for commercial risks and personal risks not otherwise specified in this section. Such activity may be conducted internally within the department, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner. To the extent the commissioner considers necessary and appropriate,*[~~,~~] insurers, advisory organizations, *statistical agents,* and other persons or organizations involved in conducting the business of insurance in this state*, to which this section applies,* shall cooperate with the commissioner in the development and *utilization*[~~in the operation~~] of a consumer information system. The reasonable cost of developing a consumer information system shall be assessed against insurers subject to this chapter on an equitable basis.

SECTION 10. KRS 304.13-091 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No advisory organization, statistical agent, or form provider shall provide any otherwise permitted service, and no insurer shall utilize the services unless the organization has obtained a license pursuant to subsection (3) of this section.

(2) No advisory organization, statistical agent, or form provider shall refuse to supply any services for which it is licensed in Kentucky to any insurer authorized to do business in Kentucky and offering to pay the fair and usual compensation for the services.

(3) An advisory organization, statistical agent, or form provider applying for a license shall include with its application:

(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;

(b) A list of its members, subscribers, and customers;

(c) The name and address of one (1) or more residents of Kentucky upon whom notices, process affecting it, or orders of the commissioner may be served;

(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;

(e) A biography of the ownership and management of the organization; and

(f) Any other relevant information and documents that the commissioner may require.

(4) Every organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section shall be filed at least thirty (30) days before it becomes effective.

(5) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, he or she shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market.

(6) Licenses issued pursuant to this section shall remain in effect for one (1) year unless the license is suspended or revoked. The commissioner may at any time, after a hearing to be conducted in accordance with the provisions of this chapter and KRS Chapter 13B, revoke or suspend the license of an advisory organization, statistical agent, or form provider which does not comply with the requirements and standards of this chapter.

(7) Advisory organizations wishing to operate as statistical agents or form providers may be so authorized under their license as an advisory organization. A separate license is not required.

(8) Each advisory organization, statistical agent, and form provider shall pay fees as required by KRS 304.4-010 for the application, continuance, or renewal of its license.

Section 11. KRS 304.13-111 is amended to read as follows:

No advisory organization ***or statistic agent*** shall:

(1) Make an agreement with an insurer or another advisory organization that has the purpose or effect of substantially lessening competition in an insurance market; ***or***

(2) After January 1, 1983, compile or distribute recommendations relating to rates that include profit or expenses, except loss adjustment expenses[~~; or~~

~~(3) File rates or other information on behalf of an insurer~~].

Section 12. KRS 304.13-121 is amended to read as follows:

Any[~~An~~] advisory organization ***in addition to other activities not prohibited, is authorized, on behalf of its members and subscribers, to***[~~may~~]:

(1) Collect statistical data from members***, subscribers,*** or any other source;

(2) Develop statistical plans including territorial and class definitions;

(3) ***Prepare, file, and distribute prospective loss costs which may include provisions for special assessments. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective***[~~Distribute pure premium data, adjusted for loss development and loss trending, in accordance with its statistical plans~~];

(4) ***Prepare, file, and*** distribute manuals of rating rules***,***[~~, and~~] rating schedules, ***and other supplementary rating information that do***[~~except that the manuals may~~] not include final rates***, expense provisions, or minimum premiums***[~~ or permit calculation of final rates without outside information~~];

(5) ***Prepare, file, and distribute factors, calculations, or formulas pertaining to classification, territory, increased limits, and other variables***[~~Distribute information by circulars that are filed with the commissioner and open to public inspection~~];

(6) ***Distribute information that is required or directed to be filed with the commissioner;***

(7) Conduct research and ***on-site***[~~field~~] inspections ***in order*** to prepare ***classifications of*** public fire ***defenses,***[~~defense classifications~~] and to consult with public officials regarding public fire protection as it would affect members***, subscribers*** and others;

(8)~~[(7)]~~Conduct research ***in order*** to ***discover,*** identify, and classify information ***relating to***~~[on the]~~ causes or prevention of losses;

(9) Conduct research relating to the impact of statutory changes upon prospective loss costs and special assessments;

(10)~~[(8)]~~ Prepare***, file, and distribute*** policy forms and endorsements and consult with members***, suscribers,*** and others ***relative to their***~~[on]~~ use and application;

(11)~~[(9)]~~ Conduct research and ***on-site***~~[field]~~ inspections ***for the purpose of providing risk***~~[to collect]~~ information~~[for calculating rates or collecting statistics]~~ relating to individual ***structures***~~[risks]~~;~~[and]~~

(12) Conduct on-site inspections to determine rating classifications for individual insureds;

(13) For workers' compensation insurance, establish a committee which may include insurance company representatives to review the determination of the rating classification for individual insureds and suggest modifications to the classification system, pursuant to subsection (1) of Section 15 of this Act;

(14)~~[(10)]~~ ***Collect,*** compile, and ***publish***~~[distribute]~~ past and current prices of ***individual*** insurers, if such information is ***also***~~[filed with the commissioner and is]~~ made available to the public ***at a reasonable cost;***

(15) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

(16) File final rates, at the direction of the commissioner, for residual market mechanisms; and

(17) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 13. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In addition to other activities not prohibited, any statistical agent is authorized, on behalf of its members and subscribers, to:

(1) Develop statistical plans including territorial and class definitions;

(2) Collect historical data from members, subscribers, or any other source;

(3) Distribute information that is required or directed to be filed with the commissioner;

(4) Collect, compile, and distribute past and current prices of individual insurers and publish such information;

(5) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings; and

(6) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 14. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every advisory organization shall file with the commissioner every statistical plan, all prospective loss costs, provisions for special assessments, and all supplementary rating information, and every change or amendment or modification of any of the foregoing proposed for use in Kentucky. Each filing shall be filed thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days, if written or electronic notice is given within the initial thirty (30) day period to the advisory organization that additional time is needed for the consideration of the filing. The commissioner may, upon giving written or electronic notice to the advisory organization, request additional information that is needed to complete the review of the filing. If the commissioner requests such additional information prior to the filing becoming effective, the filing shall become effective thirty (30) days after the additional information is provided to the commissioner.

(2) Upon written application by the advisory organization, the commissioner may authorize an earlier effective date.

(3) All filings shall be subject to the provisions of Section 8 of this Act and all other provisions of this chapter relating to filings made by insurers.

SECTION 15. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the commissioner by an advisory organization designated by the commissioner.

(2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the commissioner.

(3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(5) The commissioner shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization.

SECTION 16. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall willfully withhold information which will affect the rates or premiums chargeable under this subtitle from, or knowingly give false or misleading information to, the commissioner, any statistical agent, any advisory organization, or any insurer.

Section 17. KRS 304.13-131 is amended to read as follows:

(1) No insurer ***or advisory organization*** shall make ***any arrangement***~~[an agreement]~~ with any other insurer, advisory organization, or ***other*** person that has the purpose or effect of unreasonably restraining trade or ***unreasonably***~~[or substantially]~~ lessening competition in ***the business of***~~[an]~~ insurance~~[market]~~.

(2) ***No insurer or advisory organization shall:***

(a) Attempt to monopolize, or combine, or conspire with any other person to monopolize an insurance market; or

(b) Engage in a boycott, on a concerted basis, of an insurance market.

(3) No insurer shall agree with any other insurer or with an advisory organization to ***mandate adherence***~~[adhere]~~ to***, or to mandate use of,*** any rate, ***prospective loss cost,*** rating plan, rating schedule, rating rule, ***policy or bond form,*** rate classification, rate territory, underwriting rule,~~[or]~~ survey, ***inspection or similar material,*** except as needed to ***facilitate the reporting of statistics to advisory organizations, statistical agents, or the commissioner***~~[develop and maintain statistical plans permitted by KRS 304.13-011 to 304.13-161]~~. ***The fact that two (2) or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently the same rates, prospective loss cost, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys, or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.***

(4)~~[(3)]~~Two (2) or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to ***any matters pertaining to*** those activities authorized in this chapter as if they ***constituted***~~[were]~~ a single insurer.

Section 18. KRS 304.13-141 is amended to read as follows:

(1) The commissioner may examine any insurer, pool, advisory organization, ***statistical agent, form provider,*** or residual market or joint underwriting mechanism as deemed necessary to ascertain compliance with ***this chapter***~~[KRS 304.13-011 to 304.13-161]~~. Any examination made by the commissioner or by examiners designated by him shall be at the expense of the organization examined as specified in Subtitle 2 of KRS Chapter 304.

(2) Every insurer, pool, advisory organization, ***statistical agent,*** and residual market or joint underwriting mechanism shall maintain reasonable records, adapted to its method of operation, containing its experience or the experience of its members. Records shall include the statistics and other information used by it in its activities. The records shall be available at all reasonable times and at a reasonable location to enable the commissioner to determine whether the activities of an insurer, ***pool,*** advisory organization, ***statistical agent, residual market or joint underwriting mechanism***~~[or other association formed pursuant to KRS 304.13-011 to 304.13-161]~~ are in compliance with this chapter.

(3) In lieu of an examination, the commissioner may accept the report of an examination by the insurance supervisory official of another state, if the report is made pursuant to the laws of that state.

Section 19. KRS 304.13-151 is amended to read as follows:

(1) Notwithstanding ***subsection (2)(a) of*** KRS 304.13-131, insurers participating in joint underwriting, ***joint reinsurance*** pools, or residual market mechanisms may, in connection with such activity, cooperate ***with each other*** in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics ***or***~~[and]~~ other information, ***or carrying on***~~[and the undertaking of]~~ research. ~~[A]~~Joint underwriting***, joint reinsurance pools, and***~~[pool or]~~ residual market ***mechanisms***~~[mechanism]~~ shall not be deemed~~[an]~~ advisory ***organizations***~~[organization]~~.

(2) ***Except to the extent modified by this section, insurers, joint underwriting, joint reinsurance pool and residual market mechanism activities are subject to the provisions of this chapter.***

(3) Every~~[A]~~ pool shall file with the commissioner a copy of its constitution, bylaws, rules***, and regulations*** governing its activities, and articles of incorporation, agreement, or association. It shall also file with the commissioner a list of its members and the name and address of a resident of this state on whom notices or orders of the commissioner ***or process*** may be served***, and any changes in amendments or changes in the foregoing***.

(4)~~[(3)]~~Any ***residual market mechanism,*** plan***,*** or agreement to implement a residual market mechanism***, and any changes or amendments in the plan*** shall be submitted ***in writing*** to the commissioner for ***consideration and*** approval***, together with any other information as may be reasonably required***. The commissioner shall approve only those agreements that ***he or she finds contemplate both***~~[contemplate]~~ the use of rates ***which meet the standards of this chapter and activities and practices***~~[that are adequate but not excessive,]~~ that are not ***unfair, unreasonable, or*** ~~[unfairly discriminatory, and that are]~~ otherwise ***inconsistent with the provisions of this chapter***~~[consistent with KRS 304.13-011 to 304.13-161]~~. ***At any time after any agreements are in effect, the commissioner may review the practices and activities of the adherents to these***

agreements and if, after a hearing, the commissioner finds that any practice or activity is unfair or unreasonable, or is otherwise inconsistent with the provisions of this Chapter, the commissioner may issue a written order to the parties and either require the discontinuance of these acts or revoke approval of any such agreement.

(5)[~~(4)~~]If the commissioner finds after a hearing that ***any***[~~an~~] activity ***or practice*** of an insurer participating in joint underwriting ***or***[~~,~~] a pool ***is unfair, is unreasonable***,[~~ or a residual market mechanism~~] will tend to[~~ substantially~~] lessen competition in ***any***[~~an insurance~~] market, or is otherwise inconsistent with the provisions ***or purposes*** of ***this chapter***[~~KRS 304.13-011 to 304.13-161~~], an order may be issued[~~ specifying in what respects the activity is anticompetitive or inconsistent with KRS 304.13-011 to 304.13-161 and~~] requiring the discontinuance of the activity.

(6)[~~(5)~~]As a condition of its authority under this chapter to transact casualty insurance (as defined in KRS 304.5-070) in this state, every insurer so authorized shall become and remain a signatory to the "Kentucky automobile insurance plan" as it is presently formulated or as it is hereafter amended with the approval of the commissioner. The "Kentucky automobile insurance plan" shall be deemed to be a mandated "residual market mechanism" as defined in KRS 304.13-011(8).

Section 20. KRS 304.13-350 is amended to read as follows:

The commissioner shall review, approve, and hear appeals on the assignment, reassignment, or modification of any fire protection classification of any fire protection district, municipality, or locality in the state which is made by any lawful ***insurer, advisory***[~~rating~~] organization, or agency operating in the Commonwealth.

Section 21. KRS 304.13-355 is amended to read as follows:

Any fire protection district, municipality, or locality in the state which is assigned a fire protection classification by any lawful ***advisory***[~~rating~~] organization or insurer which makes its own rates, operating in the Commonwealth, may appeal to the commissioner for modification or reassignment of the classification within thirty (30) days of receipt of the classification. The commissioner shall determine the manner in which an appeal may be filed.

Section 22. KRS 304.13-360 is amended to read as follows:

(1) The commissioner shall make such investigation as he deems necessary or convenient for proper determination regarding an appeal.

(2) The books, accounts, papers and records of every fire protection classification ***advisory***[~~rating~~] organization or insurer which makes its own rates, operating in the Commonwealth, shall be available to the commissioner for inspection and examination. By notice and order, the commissioner may require their production or the production of verified copies at such time and place as he designates, any expense incurred to be borne by the rating organization or insurer so ordered.

Section 23. KRS 304.13-365 is amended to read as follows:

(1) Within thirty (30) days of the filing of an appeal, the commissioner shall hold an administrative hearing to be conducted in accordance with KRS Chapter 13B. Whenever the commissioner determines that a fire protection classification is unreasonable, he shall by final order prescribe a reasonable classification to be followed for a period not to exceed one (1) year. A subsequent evaluation by the ***advisory***[~~rating~~] organization or insurer shall not be permitted until the expiration of the period set by the commissioner.

(2) The commissioner may compel obedience to its final orders by proper proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, and these proceedings shall have priority over all pending cases.

Section 24. KRS 304.13-370 is amended to read as follows:

(1) No insurer may increase premiums for fire insurance based on a fire protection classification until the expiration of the thirty (30) day period for appeal by the fire protection district, municipality or locality, as provided in KRS 304.13-355. If an appeal is filed, no insurer may increase such premiums until approval of the fire protection classification by the commissioner.

(2) If the commissioner's reassignment or modification of a fire protection classification results in lower fire insurance premiums, the appropriate insurers shall make any refunds of paid premiums due to customers within the affected fire protection district, municipality or locality. Such refunds shall be determined from the date the ***advisory***[~~rating~~] organization or insurer last assigned or reassigned the classification appealed.

Section 25. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to any rates filed under Subtitle 17A of this chapter, surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the

commissioner.

(a) For property and casualty coverages, every form requiring an insured to reject coverage, remove coverage, or reduce coverage must be filed with and approved by the commissioner before it is delivered, issued for delivery, or used in Kentucky.

(b) As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages ***(other than accident and health)*** the filing required by this subsection may be made by ***advisory***[~~rating~~] organizations ***or form providers*** on behalf of ***their***[~~its~~] members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(c) Every advisory organization and form provider shall file with the commissioner for approval every property and casualty policy form and endorsement before distribution to members, subscribers, customers, or others.

(d) Every property and casualty insurer shall file with the commissioner notice of adoption before use of any approved form filed by an advisory organization or form provider or filed by the insurer pursuant to paragraph (b) of this subsection.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

(6) For the purposes of this section, unless the context requires otherwise:

(a) "Advisory organization" has the meaning provided in Section 1 of this Act; and

(b) "Form provider" has the meaning provided in Section 1 of this Act.

The Committee Substitute No. 1 to **HB 354** is as follows:

HB 354, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.13-011 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) A "market" is the interaction between buyers and sellers consisting of a product market component and a geographic market component. A product market component consists of identical or readily substitutable products including but not limited to consideration of coverage, policy terms, rate classifications, and underwriting. A geographic market component is a geographical area in which buyers have a reasonable degree of access to insurance sales outlets. Determination of a geographic market component shall consider existing market patterns.

(2) "Supplementary ***rating***[~~rate~~] information" ***includes***[~~is~~] any manual or plan of rates, classification, rating schedule, minimum premium, policy ***fees***[~~fee~~], rating ***rules***[~~rule~~], ***or***[~~and~~] any other similar information needed to determine the applicable rate ***or premium. This shall include underwriting rules, but only to the extent necessary to determine the rate or premium that will be applicable to a risk should the insurer decide to provide coverage. This does not include guidelines that relate to the selection of those risks that are acceptable to an insurer***[~~in effect or to be in effect~~].

(3) "Supporting information" is the experience and judgment of the filer and the experience or data of other insurers or organizations relied on by the filer, the interpretation of any ***other***[~~statistical~~] data relied on by the filer, descriptions of methods used in making the rates, and any other[~~ similar~~] information required to be filed by the commissioner.

(4) "Personal risks" ***means homeowners, tenants, private passenger nonfleet automobiles, mobile homes, and other***~~[are those covered by]~~ property and casualty insurance for personal, family, or household needs.

(5) "Commercial risks" are any kinds of risks that are not personal risks.

(6) "Joint underwriting" is a voluntary arrangement established~~[on an ad hoc basis]~~ to provide insurance coverage for a~~[commercial]~~ risk pursuant to which two (2) or more insurers ***jointly***~~[separately]~~ contract with the insured at a price and under policy terms agreed on between the insurers.

(7) A "pool" is a voluntary arrangement, other than by a contract of reinsurance, established on a general and continuing basis pursuant to which two (2) or more insurers participate in the sharing of risks on a predetermined basis. A pool may operate through an association, syndicate or other pooling agreement.

(8) A "residual market mechanism" is an agreement, either voluntary or mandated by law, involving participation by insurers in the equitable apportionment among them of insurance that may be afforded applicants who are unable to obtain insurance through ordinary methods.

(9) An "advisory organization" is any ***entity, including its affiliates or subsidiaries,***~~[organization]~~ which either has two (2) or more member insurers or is controlled ***either directly or indirectly*** by two (2) or more insurers and which assists insurers in ratemaking related activities. Two (2) or more insurers having a common ownership or operating in this state under common management or control constitute a single insurer ***for purposes of this definition***.

(10) A "competitive market" is a market that has not been found to be noncompetitive pursuant to KRS 304.13-041 and for which no such order is in effect.

(11) A "noncompetitive market" is a market for which there is an order in effect pursuant to KRS 304.13-041 that a reasonable degree of competition does not exist.

(12) "~~[Loss]~~Trending" is any~~[appropriate]~~ procedure for projecting developed losses to the average date of loss***, or premiums or exposures to the average date of writing,*** for the period during which the policies are to be effective.

(13) "Expenses" are those portions of any rate attributable to~~[unallocated loss adjustment expenses,]~~ acquisition, field supervision, and collection expenses, general expenses, and ***premium*** taxes, licenses, and fees.~~[Expenses do not include those directly allocated by the insurer to the settlement of specific losses.]~~

(14) "Profit" is the portion of any rate attributable to funds needed for growth, contingencies, and return to stockholders.

(15) "Pure premium" ***means the loss cost per unit of exposure excluding all loss adjustment expenses***~~[is the loss cost per unit of exposure plus the loss adjustment expense directly allocated to the settlement of specific losses]~~.

(16) "Classification system" or "classification" means the process of grouping risks with similar risk characteristics so that differences in cost may be recognized.

(17) "Developed losses" means losses (including loss adjustment expenses) adjusted, using standard actuarial techniques, to eliminate the effect of differences between current payment or reserve estimates and those which are anticipated to provide actual ultimate loss (including loss adjustment expense) payments.

(18) "Experience rating" means a rating procedure utilizing past insurance experience of the individual policyholder to forecast future losses by measuring the policyholder's loss experience against the loss experience of policyholders in the same classification to produce a prospective premium credit, debit, or unity modification.

(19) "Form provider" means a person who prepares, files, and distributes policy contract forms and endorsements and consults with members, subscribers, customers, or others relative to their use and application, but is not an advisory organization as defined in this subtitle.

(20) "Loss adjustment expenses" means the expenses incurred by the insurer in the course of settling claims.

(21) "Prospective loss costs" means that portion of a rate that does not include provisions for expenses (other than loss adjustment expenses) or profit, and are based on historical aggregate losses or output from simulation models and loss adjustment expenses adjusted through development to their ultimate value and projected through trending to a future point in time. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective.

(22) "Rate" means that cost of insurance per exposure unit whether expressed as a single number or as a prospective loss cost with an adjustment to account for the treatment of expenses, profit, and individual insurer variation in loss experience, prior to any application of individual risk variations based on loss or expense considerations, and does not include minimum premium.

(23) "Special assessments" means guaranty fund assessments, residual market mechanism assessments, and other similar assessments which are included in ratemaking. Special assessments shall not be considered as either expenses or losses. Additional charges collected by the insurer and returned to a governmental agency on behalf of an insured are not special assessments. Examples of these additional charges include, but are not limited to, the Special Fund charge for workers' compensation imposed by KRS Chapter 342, local government premium tax imposed by KRS 91A.080, and the Revenue Cabinet surcharge imposed by KRS Chapter 136.

(24) "Statistical agent" means an entity that has been licensed by the commissioner to collect statistics from insurers and provide reports developed from these statistics to the commissioner for the purpose of fulfilling the statistical reporting obligations of those insurers under this chapter.

Section 2. KRS 304.13-021 is amended to read as follows:

KRS 304.13-011 to 304.13-161 apply to all types of insurance written on risks in this state by any insurer authorized under this chapter to do business in this state, except:

(1) Life insurance;

(2) Annuities;

(3) ***Wet***~~[Ocean]~~ marine ***and transportation*** insurance;

(4) Accident and health insurance;

(5) Reinsurance;

(6) Assessment or cooperative companies operating under the provisions of KRS Chapter 299;~~[and]~~

(7) Individual and group workers' compensation self-insurers***;***

(8) Title insurance; and

(9) Liability self-insurance groups.

Section 3. KRS 304.13-031 is amended to read as follows:

(1) In a noncompetitive market, rates shall be made in accordance with the following provisions:

(a) Manual, minimum, class rates, rating schedules or rating plans, shall be made and adopted, except in the case of specific inland marine rates on risks specially rated;

(b) Rates shall not be excessive, inadequate or unfairly discriminatory;

(c) Due consideration shall be given:

1. To past and prospective loss experience within and outside this state;

2. To the conflagration and catastrophe hazards;

3. To a reasonable margin for underwriting profit and contingencies;

4. To dividends, savings or unabsorbed premium deposits allowed or returned by insurers to their policyholders, members or subscribers;

5. To past and prospective expenses both ***countrywide***~~[countywide]~~ and those specially applicable to this state;

6. To all other relevant factors within and outside this state; and

7. In the case of fire insurance rates, consideration may be given to the experience of the fire insurance business during a period of not less than the most recent three (3) year period for which such experience is available;

(d) The~~[systems of]~~ expense provisions included in the rates for use by any insurer or group of insurers ***shall***~~[may differ from those of other insurers or group of insurers to]~~ reflect the requirements of the operating methods of any such insurer or group ***and its anticipated expenses,*** with respect to any kind of insurance or with respect to any subdivision or combination thereof for which subdivision or combination separate expense provisions are applicable;

(e) Risks may be grouped by classifications for the establishment of rates and minimum premiums. Classification rates may be modified to produce rates for individual risks in accordance with rating plans which establish standards for measuring variations in hazards or expense provisions, or both. Such standards may measure any differences among risks which ***can be demonstrated to***~~[may]~~ have a probable effect upon losses or expenses. Rates made in accordance with this section may be used subject to this subtitle.

Section 4. KRS 304.13-061 is amended to read as follows:

(1) The information furnished in support of a filing may include:

(a) The experience or judgment of the insurer;

(b) The insurer's interpretation of any statistical data it relies on;

(c) The experience of other insurers; and

(d) Any other relevant factors.

(2) The commissioner may adopt reasonable ***administrative regulations***~~[rules]~~ for use by insurers to record and report to the commissioner their rates and other information determined by the commissioner to be necessary or appropriate for the administration of KRS 304.13-011 to 304.13-161***, and the effectuation of its purposes. The commissioner may adopt reasonable administrative regulations to assure that the experience of all insurers is made available at least annually in***

such form and detail as is necessary to aid in determining whether rating systems comply with the standards set forth in this subtitle. [~~However, except for workers' compensation reports, no insurer shall be required to report its loss experience on a classification basis that is inconsistent with the rating system filed by it.~~] The commissioner may designate one (1) or more advisory organizations ***or statistical agents*** to assist him in gathering, compiling, and reporting such information***, which shall be a matter of public record. The scope of these rules may include the data which must be reported by insurers, definitions of data elements, the timing and frequency of statistical reporting by insurers, data quality standards, data edit and audit requirements, data retention requirements, reports to be generated by advisory organizations or statistical agents to fulfill the requirements of this section, and the timing of such reports***.[~~ Insurers shall record and report their workers' compensation experience on a classification basis consistent with that of an advisory organization designated by the commissioner.~~]

(2) The commissioner may promulgate administrative regulations for the interchange of data necessary for the application of rating plans.

(3) In order to further uniform administration of rate regulatory laws, the commissioner and every insurer, advisory organization, and statistical agent may exchange information and experience data with insurance supervisory officials, insurers, and advisory organizations in other states and may consult with them with respect to the application of rating systems and the collection of statistical data.

Section 5. KRS 304.13-081 is amended to read as follows:

(1) All rates, supplementary rate information, and supporting information filed under KRS 304.13-011 to 304.13-161 shall be open to public inspection at any reasonable time. Copies may be obtained by any person on request and on payment of a charge specified in Subtitle 4 of this chapter.

(2) The commissioner shall ***utilize,***[~~designate certain types of personal risks coverages for which the commissioner shall~~] develop***, or cause to be developed*** a consumer information system that will ***provide and*** disseminate price and other relevant information on a readily available basis ***to purchasers of homeowners or private passenger insurance. The commissioner may utilize, develop, or cause to be developed a consumer information system which will provide and disseminate price and other relevant information on a readily available basis to purchasers of insurance for commercial risks and personal risks not otherwise specified in this section. Such activity may be conducted internally within the department, in cooperation with other state insurance departments, through outside contractors, or in any other appropriate manner. To the extent the commissioner considers necessary and appropriate,***[~~.~~] insurers, advisory organizations, ***statistical agents,*** and other persons or organizations involved in conducting the business of insurance in this state***, to which this section applies,*** shall cooperate with the commissioner in the development and ***utilization***[~~in the operation~~] of a consumer information system. The reasonable cost of developing a consumer information system shall be assessed against insurers subject to this chapter on an equitable basis.

SECTION 6. KRS 304.13-091 IS REPEALED AND REENACTED TO READ AS FOLLOWS:

(1) No advisory organization, statistical agent, or form provider shall provide any otherwise permitted service, and no insurer shall utilize the services unless the organization has obtained a license pursuant to subsection (3) of this section.

(2) No advisory organization, statistical agent, or form provider shall refuse to supply any services for which it is licensed in Kentucky to any insurer authorized to do business in Kentucky and offering to pay the fair and usual compensation for the services.

(3) An advisory organization, statistical agent, or form provider applying for a license shall include with its application:

- ***(a) A copy of its constitution, charter, articles of organization, agreement, association or incorporation, bylaws, plan of operation, and any other rules or regulations governing the conduct of its business;***
- ***(b) A list of its members, subscribers, and customers;***
- ***(c) The name and address of one (1) or more residents of Kentucky upon whom notices, process affecting it, or orders of the commissioner may be served;***
- ***(d) A statement showing its technical qualifications for acting in the capacity for which it seeks a license;***
- ***(e) A biography of the ownership and management of the organization; and***
- ***(f) Any other relevant information and documents that the commissioner may require.***

(4) Every organization which has applied for a license shall notify the commissioner of every material change in the facts or in the documents on which its application was based. Any amendment to a document filed under this section shall be filed at least thirty (30) days before it becomes effective.

(5) If the commissioner finds that the applicant and the natural persons through whom it acts are competent, trustworthy, and technically qualified to provide the services proposed, and that all requirements of the law are met, he or she shall issue a license specifying the authorized activity of the applicant. The commissioner shall not issue a license if the proposed activity would tend to create a monopoly or to substantially lessen the competition in any market. At the request of the licensee, licenses issued under this section may be renewed on an annual basis.

(6) Licenses issued pursuant to this section shall remain in effect for one (1) year unless:

(a) The licensee fails to pay fees required by law for the continuance or renewal of its license;

(b) The licensee withdraws from the state; or

(c) The license is suspended or revoked.

The commissioner may at any time, after a hearing to be conducted in accordance with the provisions of this chapter and KRS 304.2-310, revoke or suspend the license of an advisory organization, statistical agent, or form provider which does not comply with the requirements and standards of this chapter.

(7) The commissioner shall by administrative regulation establish a written summary of information that shall be included in an application for licenses issued under this section.

(8) Advisory organizations wishing to operate as statistical agents or form providers may be so authorized under their license as an advisory organization. A separate license is not required.

(9) Each advisory organization, statistical agent, and form provider shall pay fees as required by KRS 304.4-010 for the application, continuance, or renewal of its license.

Section 7. KRS 304.13-111 is amended to read as follows:

No advisory organization ***or statistical agent*** shall:

(1) Make an agreement with an insurer or another advisory organization that has the purpose or effect of substantially lessening competition in an insurance market; ***or***

(2) After January 1, 1983, compile or distribute recommendations relating to rates that include profit or expenses, except loss adjustment expenses~~[; or~~

~~(3) File rates or other information on behalf of an insurer]~~.

Section 8. KRS 304.13-121 is amended to read as follows:

Any~~[An]~~ advisory organization ***in addition to other activities not prohibited, is authorized, on behalf of its members and subscribers, to***~~[may]~~:

(1) Collect statistical data from members***, subscribers,*** or any other source;

(2) Develop statistical plans including territorial and class definitions;

(3) ***Prepare, file, and distribute prospective loss costs which may include provisions for special assessments. Loss costs, derived in part or entirely upon output form simulation models, must be approved by the commissioner before they become effective***~~[Distribute pure premium data, adjusted for loss development and loss trending, in accordance with its statistical plans]~~;

(4) ***Prepare, file, and*** distribute manuals of rating rules,~~[and]~~ rating schedules, ***and other supplementary rating information that do***~~[except that the manuals may]~~ not include final rates***, expense provisions, profit provisions, or minimum premiums***~~[or permit calculation of final rates without outside information]~~;

(5) ***Prepare, file, and distribute factors, calculations, or formulas pertaining to classification, territory, increased limits, and other variables***~~[Distribute information by circulars that are filed with the commissioner and open to public inspection]~~;

(6) ***Distribute information that is required or directed to be filed with the commissioner;***

(7) Conduct research and ***on-site***~~[field]~~ inspections ***in order*** to prepare ***classifications of*** public fire ***defenses,***~~[defense classifications]~~ and to consult with public officials regarding public fire protection as it would affect members***, subscribers*** and others;

(8)~~[(7)]~~Conduct research ***in order*** to ***discover,*** identify, and classify information ***relating to***~~[on the]~~ causes or prevention of losses;

(9) Conduct research relating to the impact of statutory changes upon prospective loss costs and special assessments;

(10)~~[(8)]~~ Prepare***, file, and distribute*** policy forms and endorsements and consult with members***, subscribers,*** and others ***relative to their***~~[on]~~ use and application;

(11)~~[(9)]~~ Conduct research and ***on-site***~~[field]~~ inspections ***for the purpose of providing risk***~~[to collect]~~ information~~[for calculating rates or collecting statistics]~~ relating to individual ***structures***~~[risks]~~;~~[and]~~

(12) Conduct on-site inspections to determine rating classifications for individual insureds;

(13) For workers' compensation insurance, establish a committee which may include insurance company representatives to review the determination of the rating classification for individual insureds and suggest modifications to the classification system, pursuant to subsection (1) of Section 11 of this Act;

(14)~~[(10)]~~ ***Collect,*** compile, and ***publish***~~[distribute]~~ past and current prices of ***individual*** insurers, if such information is ***also***~~[filed with the commissioner and is]~~ made available to the public ***at a reasonable cost;***

(15) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings;

(16) File final rates, at the direction of the commissioner, for residual market mechanisms; and

(17) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 9. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

In addition to other activities not prohibited, any statistical agent is authorized, on behalf of its members and subscribers, to:

(1) Develop statistical plans including territorial and class definitions;

(2) Collect historical data from members, subscribers, or any other source;

(3) Distribute information that is required or directed to be filed with the commissioner;

(4) Collect, compile, and distribute past and current prices of individual insurers and publish such information;

(5) Collect and compile exposure and loss experience for the purpose of individual risk experience ratings; and

(6) Furnish any other services, as approved or directed by the commissioner, related to those enumerated in this section.

SECTION 10. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every advisory organization shall file with the commissioner every statistical plan, all prospective loss costs, provisions for special assessments, and all supplementary rating information, and every change or amendment or modification of any of the foregoing proposed for use in Kentucky. Each filing shall be filed thirty (30) days before it becomes effective, which period may be extended by the commissioner for an additional period not to exceed thirty (30) days, if written notice is given within the initial thirty (30) day period to the advisory organization that additional time is needed for the consideration of the filing. The commissioner may, upon giving written notice to the advisory organization, request additional information that is needed to complete the review of the filing. If the commissioner requests such additional information prior to the filing becoming effective, the filing shall become effective thirty (30) days after the additional information is provided to the commissioner.

(2) Upon written application by the advisory organization, the commissioner may authorize an earlier effective date.

(3) All filings shall be subject to the provisions of Section 5 of this Act and all other provisions of this chapter relating to filings made by insurers.

SECTION 11. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Every workers' compensation insurer shall adhere to a uniform classification system and uniform experience rating system filed with the commissioner by an advisory organization designated by the commissioner.

(2) Every workers' compensation insurer shall report its experience in accordance with the statistical plans and other reporting requirements in use by an advisory organization designated by the commissioner.

(3) A workers' compensation insurer may develop subclassifications of the uniform classification system upon which rates may be made. These subclassifications and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(4) A workers' compensation insurer may develop rating plans which identify loss experience as a factor to be used. These rating plans and their filing shall be subject to the provisions of this chapter applicable to filings generally.

(5) The commissioner shall disapprove subclassifications, rating plans, or other variations from manual rules filed by a workers' compensation insurer if the insurer fails to demonstrate that the data thereby produced can be reported consistent with the uniform classification system and experience rating system and in such a fashion so as to allow for the application of experience rating filed by the advisory organization.

SECTION 12. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

No person shall willfully withhold information which will affect the rates or premiums chargeable under this subtitle from, or knowingly give false or misleading information to, the commissioner, any statistical agent, any advisory organization, or any insurer.

Section 13. KRS 304.13-131 is amended to read as follows:

(1) No insurer ***or advisory organization*** shall make ***any arrangement***[~~an agreement~~] with any other insurer, advisory organization, or ***other*** person that has the purpose or effect of unreasonably restraining trade or ***unreasonably***[~~of substantially~~] lessening competition in ***the business of***[~~an~~] insurance[~~ market~~].

(2) ***No insurer or advisory organization shall:***

(a) Attempt to monopolize, or combine, or conspire with any other person to monopolize an insurance market; or

(b) Engage in a boycott, on a concerted basis, of an insurance market.

(3) No insurer shall agree with any other insurer or with an advisory organization to ***mandate adherence***[~~adhere~~] to***, or to mandate use of,*** any rate, ***prospective loss cost,*** rating plan, rating schedule, rating rule, ***policy or bond form,*** rate classification, rate territory, underwriting rule,[~~ or~~] survey, ***inspection or similar material,*** except as needed to ***facilitate the reporting of statistics to advisory organizations, statistical agents, or the commissioner***[~~develop and maintain statistical plans permitted by KRS 304.13-011 to 304.13-161~~]. ***The fact that two (2) or more insurers, whether or not members or subscribers of an advisory organization, use consistently or intermittently the same rates, prospective loss cost, rating plans, rating schedules, rating rules, policy or bond forms, rate classifications, rate territories, underwriting rules, surveys, or inspections or similar materials is not sufficient in itself to support a finding that an agreement exists.***

(4)[~~(3)~~]Two (2) or more insurers having a common ownership or operating in this state under common management or control may act in concert between or among themselves with respect to ***any matters pertaining to*** those activities authorized in this chapter as if they ***constituted***[~~were~~] a single insurer.

Section 14. KRS 304.13-141 is amended to read as follows:

(1) The commissioner may examine any insurer, pool, advisory organization, ***statistical agent, form provider,*** or residual market or joint underwriting mechanism as deemed necessary to ascertain compliance with ***this chapter***[~~KRS 304.13-011 to 304.13-161~~]. Any examination made by the commissioner or by examiners designated by him shall be at the expense of the organization examined as specified in Subtitle 2 of KRS Chapter 304.

(2) Every insurer, pool, advisory organization, ***statistical agent,*** and residual market or joint underwriting mechanism shall maintain reasonable records, adapted to its method of operation, containing its experience or the experience of its members. Records shall include the statistics and other information used by it in its activities. The records shall be available at all reasonable times and at a reasonable location to enable the commissioner to determine whether the activities of an insurer, ***pool,*** advisory organization, ***statistical agent, residual market or joint underwriting mechanism***[~~or other association formed pursuant to KRS 304.13-011 to 304.13-161~~] are in compliance with this chapter.

(3) In lieu of an examination, the commissioner may accept the report of an examination by the insurance supervisory official of another state, if the report is made pursuant to the laws of that state.

Section 15. KRS 304.13-151 is amended to read as follows:

(1) Notwithstanding ***subsection (2)(a) of*** KRS 304.13-131, insurers participating in joint underwriting, ***joint reinsurance*** pools, or residual market mechanisms may, in connection with such activity, cooperate ***with each other*** in the making of rates, rating systems, policy forms, underwriting rules, surveys, inspections and investigations, the furnishing of loss and expense statistics ***or***[~~ and~~] other information, ***or carrying on***[~~and the undertaking of~~] research. [~~A~~]Joint underwriting, ***joint reinsurance pools, and***[~~ pool or~~] residual market ***mechanisms***[~~mechanism~~] shall not be deemed[~~ an~~] advisory ***organizations***[~~organization~~].

(2) ***Except to the extent modified by this section, insurers, joint underwriting, joint reinsurance pool and residual market mechanism activities are subject to the provisions of this chapter.***

(3) Every[~~A~~] pool shall file with the commissioner a copy of its constitution, bylaws, rules***, and regulations*** governing its activities, and articles of incorporation, agreement, or association. It shall also file with the commissioner a list of its members and the name and address of a resident of this state on whom notices or orders of the commissioner ***or process*** may be served***, and any changes in amendments or changes in the foregoing***.

(4)[~~(3)~~]Any ***residual market mechanism,*** plan, or agreement to implement a residual market mechanism***, and any changes or amendments in the plan*** shall be submitted ***in writing*** to the commissioner for ***consideration and*** approval***, together with any other information as may be reasonably required***. The commissioner shall approve only those agreements that ***he or she finds contemplates both***[~~contemplate~~] the use of rates ***which meet the standards of this chapter and activities and practices***[~~that are adequate but not excessive~~], that are not ***unfair, unreasonable, or*** [~~unfairly discriminatory, and that are~~] otherwise ***inconsistent with the provisions of this chapter***[~~consistent with KRS 304.13-011 to 304.13-161~~]. ***At any time after any agreements are in effect, the commissioner may review the practices and activities of the adherents to these agreements and if, after a hearing, the commissioner finds that any practice or activity is unfair or unreasonable, or is otherwise inconsistent with the provisions of this Chapter, the commissioner may issue a written order to the parties and either require the discontinuance of these acts or revoke approval of any such agreement.***

(5)[~~(4)~~]If the commissioner finds after a hearing that ***any***[~~an~~] activity ***or practice*** of an insurer participating in joint underwriting ***or***[~~,~~] a pool ***is unfair, is unreasonable***,[~~ or a residual market mechanism~~] will tend to[~~ substantially~~] lessen competition in ***any***[~~an insurance~~] market, or is otherwise inconsistent with the provisions ***or purposes*** of ***this chapter***[~~KRS 304.13-011 to 304.13-161~~], an order may be issued[~~ specifying in what respects the activity is anticompetitive or inconsistent with KRS 304.13-011 to 304.13-161 and~~] requiring the discontinuance of the activity ***or practice***.

(6)[~~(5)~~]As a condition of its authority under this chapter to transact casualty insurance (as defined in KRS 304.5-070) in this state, every insurer so authorized shall become and remain a signatory to the "Kentucky automobile insurance plan" as it is presently formulated or as it is hereafter amended with the approval of the commissioner. The "Kentucky automobile insurance plan" shall be deemed to be a mandated "residual market mechanism" as defined in KRS 304.13-011(8).

Section 16. KRS 304.13-350 is amended to read as follows:

The commissioner shall review, approve, and hear appeals on the assignment, reassignment, or modification of any fire protection classification of any fire protection district, municipality, or locality in the state which is made by any lawful ***insurer,***

advisory[~~rating~~] organization, or agency operating in the Commonwealth.

Section 17. KRS 304.13-355 is amended to read as follows:

Any fire protection district, municipality, or locality in the state which is assigned a fire protection classification by any lawful ***advisory***[~~rating~~] organization or insurer which makes its own rates, operating in the Commonwealth, may appeal to the commissioner for modification or reassignment of the classification within thirty (30) days of receipt of the classification. The commissioner shall determine the manner in which an appeal may be filed.

Section 18. KRS 304.13-360 is amended to read as follows:

(1) The commissioner shall make such investigation as he deems necessary or convenient for proper determination regarding an appeal.

(2) The books, accounts, papers and records of every fire protection classification ***advisory***[~~rating~~] organization or insurer which makes its own rates, operating in the Commonwealth, shall be available to the commissioner for inspection and examination. By notice and order, the commissioner may require their production or the production of verified copies at such time and place as he designates, any expense incurred to be borne by the rating organization or insurer so ordered.

Section 19. KRS 304.13-365 is amended to read as follows:

(1) Within thirty (30) days of the filing of an appeal, the commissioner shall hold an administrative hearing to be conducted in accordance with KRS ***304.2-310***[~~Chapter 13B~~]. Whenever the commissioner determines that a fire protection classification is unreasonable, he shall by final order prescribe a reasonable classification to be followed for a period not to exceed one (1) year. A subsequent evaluation by the ***advisory***[~~rating~~] organization or insurer shall not be permitted until the expiration of the period set by the commissioner.

(2) The commissioner may compel obedience to its final orders by proper proceedings in the Franklin Circuit Court or any other court of competent jurisdiction, and these proceedings shall have priority over all pending cases.

Section 20. KRS 304.13-370 is amended to read as follows:

(1) No insurer may increase premiums for fire insurance based on a fire protection classification until the expiration of the thirty (30) day period for appeal by the fire protection district, municipality or locality, as provided in KRS 304.13-355. If an appeal is filed, no insurer may increase such premiums until approval of the fire protection classification by the commissioner.

(2) If the commissioner's reassignment or modification of a fire protection classification results in lower fire insurance premiums, the appropriate insurers shall make any refunds of paid premiums due to customers within the affected fire protection district, municipality or locality. Such refunds shall be determined from the date the ***advisory***[~~rating~~] organization or insurer last assigned or reassigned the classification appealed.

Section 21. KRS 304.14-120 is amended to read as follows:

(1) No basic insurance policy or annuity contract form, or application form where written application is required and is to be made a part of the policy or contract, or printed rider or indorsement form or form of renewal certificate, shall be delivered, or issued for delivery in this state, unless the form has been filed with and approved by the commissioner. This provision shall not apply to any rates filed under Subtitle 17A of this chapter, surety bonds, or to specially-rated inland marine risks, or to policies, riders, indorsements, or forms of unique character designed for and used with relation to insurance upon a particular subject, or which relate to the manner or distribution of benefits or to the reservation of rights and benefits under life or health insurance policies and are used at the request of the individual policyholder, contract holder, or certificate holder. As to group insurance policies issued and delivered to an association outside this state but covering persons resident in this state, all or substantially all of the premiums for which are payable by the insured members, the group certificates to be delivered or issued for delivery in this state shall be filed with and approved by the commissioner.

(a) As to forms for use in property, marine (other than wet marine and transportation insurance), casualty and surety insurance coverages ***(other than accident and health)*** the filing required by this subsection may be made by ***advisory***[~~rating~~] organizations ***or form providers*** on behalf of ***their***[~~its~~] members and subscribers; but this provision shall not be deemed to prohibit any such member or subscriber from filing any such forms on its own behalf.

(b) Every advisory organization and form provider shall file with the commissioner for approval every property and casualty policy form and endorsement before distribution to members, subscribers, customers, or others.

(c) Every property and casualty insurer shall file with the commissioner notice of adoption before use of any approved form filed by an advisory organization or form provider or filed by the insurer pursuant to paragraph (a) of this subsection.

(2) Every such filing shall be made not less than sixty (60) days in advance of any such delivery. At the expiration of such sixty (60) days the form so filed shall be deemed approved unless prior thereto it has been affirmatively approved or disapproved by order of the commissioner. Approval of any such form by the commissioner shall constitute a waiver of any unexpired portion of such waiting period. The commissioner may extend by not more than a thirty (30) day period

within which he may so affirmatively approve or disapprove any such form, by giving notice to the insurer of such extension before expiration of the initial sixty (60) day period. At the expiration of any such period as so extended, and in the absence of such prior affirmative approval or disapproval, any such form shall be deemed approved. The commissioner may at any time, after notice and for cause shown, withdraw any such approval.

(3) Any order of the commissioner disapproving any such form or any notice of the commissioner withdrawing a previous approval shall state the grounds therefor and the particulars thereof in such detail as reasonably to inform the insurer thereof. Any such withdrawal of a previously approved form shall be effective at expiration of such period, not less than thirty (30) days after the giving of the notice of withdrawal, as the commissioner shall in such notice prescribe.

(4) The commissioner may, by order, exempt from the requirements of this section for so long as he deems proper any insurance document or form or type thereof as specified in such order to which, in his opinion, this section may not practicably be applied, or the filing and approval of which are, in his opinion, not desirable or necessary for the protection of the public.

(5) Appeals from orders of the commissioner disapproving any such form or withdrawing a previous approval shall be taken as provided in Subtitle 2 of this chapter.

(6) For the purposes of this section, unless the context requires otherwise:

- ***(a) "Advisory organization" has the meaning provided in Section 1 of this Act; and***
- ***(b) "Form provider" has the meaning provided in Section 1 of this Act.***

HB 415, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.20-040 is amended to read as follows:

(1) As used in this section:

- (a) "Policy" means an automobile liability insurance policy, delivered or issued for delivery in this state, insuring a single individual or husband and wife resident of the same household, as named insured, and under which the insured vehicles therein designated are of the following types only:
  - 1. A motor vehicle of the private passenger or station wagon type that is not used as a public or livery conveyance for passengers, nor rented to others;
  - 2. Any other four-wheel motor vehicle with a load capacity of fifteen hundred (1,500) pounds or less which is not used in the occupation, profession, or business of the insured; provided, however, that this section shall not apply:
    - a. To any policy issued under an automobile assigned risk plan;
    - b. To any policy insuring more than four (4) automobiles; or
    - c. To any policy covering garage, automobile sales agency, repair shop, service station, or public parking place operation hazards;
- (b) "Automobile liability insurance policy" includes only coverage for bodily injury and property damage liability, basic reparations benefits, and the provisions therein, if any, relating to medical payments, uninsured motorists coverage, ***underinsured motorists coverage,*** and automobile physical damage coverage;
- (c) "Renewal" or "to renew" means the issuance and delivery by an insurer of a policy replacing at the end of the policy period a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of a policy beyond its policy period or term; provided, however, that any policy with a policy period or term of less than three (3) months shall for the purpose of this section be considered as if written for a policy period or term of three (3) months. Provided, further, that any policy written for a term longer than one (1) year or any policy with no fixed expiration date, shall for the purpose of this section, be considered as if written for successive policy periods or terms of one (1) year, and the policy may be terminated at the expiration of any annual period upon giving seventy-five (75) days' notice of ***nonrenewal***[~~cancellation~~] prior to the anniversary date***;***[~~, and the cancellation shall not be subject to any other provisions of this section; and~~]
- (d) "Nonpayment of premium" means failure of the named insured to discharge when due any of his obligations in connection with the payment of premiums on a policy, or any installment of the premium, whether the premium is payable directly to the insurer or its agent or indirectly under any premium finance plan or extension of credit***;***
- ***(e) "Declination " or "decline" means either the refusal of an insurer to issue an automobile liability insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written nonbinding application or written request for coverage received from an applicant. The offering of insurance coverage with a company within an insurance group that is different from the company requested on the nonbinding application or written request for coverage, or the offering of insurance upon different terms than requested in the nonbinding application or***

written request for coverage, shall be considered to be a declination; and

(f) ***"Agent" includes, but is not limited to, surplus lines broker.***

(2) (a) A notice of cancellation of a policy shall be effective only if it is based on one (1) or more of the following reasons:

1. Nonpayment of premium;[~~ or~~]

2. The driver's license or motor vehicle registration of the named insured or of any other operator who either resides in the same household or customarily operates an automobile insured under the policy has been under suspension or revocation during the policy period or, if the policy is a renewal, during its policy period or the one hundred eighty (180) days immediately preceding its effective date;

3. ***Discovery of fraud or material misrepresentation made by or with the knowledge of the named insured in obtaining the policy, continuing the policy, or in presenting a claim under the policy;***

4. ***Discovery of willful acts or omissions on the part of the named insured that increase any hazard insured against; or***

5. ***A determination by the commissioner that the continuation of the policy would place the insurer in violation of this chapter or the rules or administrative regulations of the commissioner;***

(b) This subsection shall not apply to any policy or coverage which has been in effect less than sixty (60) days at the time notice of cancellation is mailed or delivered by the insurer unless it is a renewal policy;

(c) Modification of automobile physical damage coverage by the inclusion of a deductible not exceeding one hundred dollars ($100) shall not be deemed a cancellation of the coverage or of the policy; and

(d) This subsection shall not apply to nonrenewal.

(3) No notice of cancellation of a policy to which subsection (2) of this section applies shall be effective unless mailed or delivered by the insurer to the named insured at least twenty (20) days prior to the effective date of cancellation; provided, however, that where cancellation is for nonpayment of premium at least fourteen (14) days' notice of cancellation accompanied by the reason therefor shall be given. This subsection shall not apply to renewals.

(4)[~~ No insurer shall refuse to renew a policy of automobile insurance solely because of the age of the insured.~~

~~(5)~~] No insurer ***or agent*** shall ***decline,*** refuse to renew***,*** or cancel a policy of automobile insurance solely because:

(a) Of the credit history, or lack of credit history, of the ***applicant or*** insured;

(b) The ***applicant or*** insured has previously obtained automobile coverage ***through a residual market mechanism or*** from a carrier providing nonstandard coverage;[~~ or~~]

(c) The ***applicant or*** insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care***;***

(d) ***Of the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured; or***

(e) ***Another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured.***

(5)[~~(6)~~]No insurer shall fail to renew a policy unless it shall mail or deliver to the named insured, at the address shown in the policy, at least seventy-five (75) days' advance notice of its intention not to renew. ***If notice is not provided, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate payment under the same terms and conditions, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal.***

(6) ***The transfer of a policyholder between companies within the same insurance group shall be considered a nonrenewal.***

(7) Renewal of a policy shall not constitute a waiver or estoppel with respect to grounds for cancellation which existed before the effective date of the renewal.

(8) If the insurer has manifested its willingness to renew by mailing or delivering a renewal notice, bill, certificate, or policy to the first-named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date, unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first-named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist.

(9) (a) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date, shall constitute a presumption of receipt pursuant to subsection (8) of this section.

(b) Proof of mailing of notice of cancellation or of intention not to renew or of reasons for cancellation or nonrenewal to the named insured at the address shown in the policy shall be sufficient proof of notice.

(10) No insurer shall impose or request an additional premium higher than its standard premium for automobile insurance, cancel or refuse to issue a policy, or refuse to renew a policy solely because the insured or the applicant is an individual with a disability, so long as the disability does not substantially impair the person's mechanically assisted driving ability.

(11) When an automobile liability insurance policy is canceled other than for nonpayment of premium, or in the event of failure to renew a policy of automobile liability insurance, the insurer shall notify the named insured of his possible eligibility for automobile liability insurance coverage through the Kentucky automobile assigned risk plan. The notice shall accompany or be included in the notice of cancellation or the notice of intent not to renew. The notice shall also inform the insured that he may, within ***seven (7)***[~~four (4)~~] days, request the commissioner in writing to determine whether there is sufficient reason to cancel or not to renew the policy. Within fourteen (14) days of receiving such a written request, the commissioner shall send his findings to the insurer and to the insured. When he sends his findings, the commissioner shall notify both parties of their right to request a hearing under KRS 304.2-310(2)(b) ***and KRS Chapter 13B***. The party requesting the hearing shall give the commissioner written confirmation of attendance at the hearing not more than five (5) days before, nor less than forty-eight (48) hours before, the scheduled hearing. If the requesting party fails to give the required written confirmation, the commissioner shall cancel the hearing.

(12) The reason for nonrenewal or cancellation shall accompany or be included in the notice of nonrenewal or cancellation.

(13) Except where the maximum limits of coverage have been purchased, every notice of first renewal shall include a provision or be accompanied by a notice stating in substance that added uninsured motorists, underinsured motorists, and personal injury protection coverages may be purchased by the insured.

(14) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

(15) (a) If the commissioner determines that an insurer has violated any provision of this section, the commissioner may require the insurer to:

1. Accept the application or written request for insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated;

2. Reinstate insurance coverage to the end of the policy period; or

3. Continue insurance coverage at a rate and on the same terms and conditions as are available to other risks similarly situated;

(b) As to any person who has violated any provisions of this section, the commissioner may:

1. Issue a cease and desist order to restrain the person from engaging in practices that violate this section;

2. Suspend or revoke the person's license or certificate of authority;

3. Assess a civil penalty against the person in accordance with KRS 304.99-020; or

4. Take any combination of the actions specified in this paragraph.

Section 2. KRS 304.20-320 is amended to read as follows:

(1) Declinations. An applicant may request in writing an explanation of a declination. The insurer shall provide a prompt written response to such inquiries.

(2) Cancellations.

(a) A notice of cancellation of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer shall be in writing, shall be delivered to the named insured or mailed to the named insured at the last known address of the named insured, shall state the effective date of the cancellation, and shall be accompanied by a written explanation of the specific reason or reasons for the cancellation;[~~ and~~]

(b) The notice of cancellation referred to in paragraph (a) of this subsection shall be mailed or delivered by the insurer to the named insured at least fourteen (14) days prior to the effective date of the cancellation if the cancellation is for nonpayment of premium or occurs within sixty (60) days of the date of issuance of the policy. Such notice of cancellation shall be mailed or delivered by the insurer to the named insured at least seventy-five (75) days prior to the effective date of the cancellation if the policy has been in effect more than sixty (60) days***; and***

(c) Proof of mailing of notice of cancellation or of reasons for cancellation to the named insured at the address shown in the policy shall be sufficient proof of notice.

(3) Nonrenewals.

(a) No insurer shall refuse to renew a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, written notice of the insurer's intention not to renew the policy upon expiration of the current policy period with a written explanation of the specific reason or reasons for the nonrenewal;

(b) If notice is not provided pursuant to paragraphs (a) and (b) of this subsection, coverage shall be deemed to be renewed for the ensuing policy period upon payment of the appropriate premium under the same terms and conditions, and subject to the provisions of KRS 304.20-330, until the named insured has accepted replacement coverage with another insurer, or until the named insured has agreed to the nonrenewal;

(c) If the insurer has manifested its willingness to renew by mailing or delivering of a renewal notice, bill, certificate, or policy to the first named insured at his last known address at least thirty (30) days before the end of the current policy period with the amount of the renewal premium charge and its due date clearly set forth therein, then the policy shall expire and terminate without further notice to the insured on the due date unless the renewal premium is received by the insurer or its authorized agent on or before that date. When any policy terminates pursuant to this subsection because the renewal premium was not received on or before the due date, the insurer shall, within fifteen (15) days, deliver or mail to the first named insured at his last known address a notice that the policy was not renewed and the date on which the coverage under it ceased to exist;[~~ and~~]

(d) Proof of mailing of renewal premium to the insurer or its agent, when authorized, on or before the due date shall constitute a presumption of receipt pursuant to paragraph (c) of this subsection***; and***

(e) Proof of mailing of notice of intention not to renew or of reasons for nonrenewal to the named insured at the address shown in the policy shall be sufficient proof of notice.

(4) No insurer shall increase the premium for a property or casualty insurance policy subject to KRS 304.20-300 to 304.20-350 more than twenty-five percent (25%) of the premium for the preceding policy term for like coverage and like risks unless at least seventy-five (75) days before the end of the policy period as described in KRS 304.20-310(1), the insurer shall mail or deliver to the named insured, at the last known address of the named insured, a notice for the renewal premium amount and the insurer shall mail or deliver to its agent, if any, a duplicate notice of the premium amount. In order to comply with this requirement, the insurer may extend the period of coverage of the current policy at the expiring premium.

(5) There shall be no liability on the part of and no cause of action of any nature shall arise against the commissioner or against any insurer, its authorized representative, its agents, its employees, or any firm, person, or corporation furnishing to the insurer information as to reasons for cancellation or nonrenewal, for any statement made by any of them in any written notice of cancellation or nonrenewal, or in any other communication, oral or written, specifying the reasons for cancellation or nonrenewal, or the providing of information pertaining thereto, or for statements made or evidence submitted at any hearings conducted in connection therewith.

Section 3. KRS 304.20-340 is amended to read as follows:

The declination or termination of a policy of insurance subject to KRS 304.20-300 to 304.20-350 by an insurer or agent is prohibited if the declination or termination is:

(1) Based solely upon the race, religion, nationality, ethnic group, age, sex, or marital status of the applicant or named insured;

(2) Based solely upon the lawful occupation or profession of the applicant or named insured, except that this provision shall not apply to an insurer which limits its market to one (1) lawful occupation or profession or to several related lawful occupations or professions or to an insurer that does not provide the kind of insurance sought by the applicant;

(3) Based solely upon the age or location of the residence or property of the applicant or named insured, unless such decision is for a business purpose which is not a mere pretext for unfair discrimination;

(4) Based solely upon the fact that another insurer previously declined to insure the applicant or terminated an existing policy in which the applicant was the named insured;

(5) Based solely upon the fact that the applicant or named insured previously obtained insurance through a residual market mechanism;

(6)[~~ Based solely upon the credit history, or lack of credit history, of the insured;~~

~~(7)~~] Based solely upon the fact that the ***applicant or named*** insured has previously obtained property or casualty insurance from a carrier providing nonstandard coverage; or

(7)[~~(8)~~]Based solely upon the fact that the ***applicant or named*** insured has sustained one (1) or more losses that immediately result from a natural cause without the intervention of any person and that could not have been prevented by the exercise of prudence, diligence, and care.

Section 4. KRS 304.20-042 is amended to read as follows:

(1) No insurer shall ***decline to issue, cancel, nonrenew, or otherwise terminate***[~~refuse to issue automobile or~~] property and casualty insurance ***contracts covering personal risks***[~~to an applicant~~] solely because of[~~ the~~] credit history, or lack of credit history[~~, of the applicant~~].

(2) For purposes of this section, "personal risks" shall have the meaning as defined in KRS 304.13-011.

Section 5. KRS 304.20-310 is amended to read as follows:

As used in KRS 304.20-320 to 304.20-350:

(1) "Renewal" or "to renew" means the issuance and delivery by an insurer at the end of a policy period or term of a policy superseding a policy previously issued and delivered by the same insurer, or the issuance and delivery of a certificate or notice extending the term of an existing policy beyond its policy period or term. For the purpose of KRS 304.20-320 to 304.20-350, any policy period or term of less than six (6) months shall be considered to be a policy period or term of six (6) months and any policy period or term of more than one (1) year or any policy with no fixed expiration date shall be considered a policy period or term of one (1) year;

(2) "Nonpayment of premium" means the failure of the named insured to discharge any obligation in connection with the payment of premiums on property or casualty insurance subject to KRS 304.20-320 to 304.20-350, whether such payments are directly payable to the insurer or its agent or indirectly payable under a premium finance plan or extension of credit. "Nonpayment of premium" shall include failure to pay dues or fees where payment of such dues or fees is a prerequisite to obtaining or continuing property or casualty insurance coverage;

(3) "Termination" means either a cancellation or nonrenewal of property or casualty insurance coverage in whole or in part. A cancellation occurs during the policy period or term as set forth in subsection (1) of this section. A nonrenewal occurs at the end of the policy period or term as set forth in subsection (1) of this section. For the purpose of KRS 304.20-320 to 304.20-350, the transfer of a policyholder between companies within the same insurance group shall be considered a termination, but requiring a reasonable deductible, reasonable changes in the amount of insurance, or reasonable reductions in policy limits or coverage shall not be considered a termination if such requirements are directly related to an increased hazard involved and are made on the renewal date for the policy;

(4) "Declination" means either the refusal of an insurer to issue a property or casualty insurance policy upon receipt of a written nonbinding application or written request for coverage from its agent or an applicant, or refusal of an agent to transmit to an insurer a written nonbinding application or written request for coverage received from an applicant. For the purposes of KRS 304.20-320 to 304.20-350, the offering of insurance coverage with a company within an insurance group which is different from the company requested on the nonbinding application or written request for coverage***, or***[~~for~~] the offering of insurance upon different terms than requested in the nonbinding application or written request for coverage***,*** shall be considered to be a declination; and

(5) "Agent" includes, but is not limited to, surplus lines ***broker***[~~brokers~~].

The Committee Amendment No. 1 to **HB 415** is as follows:

On page 10, line 1, by deleting "***or against any insurer, its authorized***"; and

On page 10, by deleting lines 2 and 3 in their entirety; and

On page 10, line 4, by deleting "***nonrenewal,***".

HB 551, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-300 is amended to read as follows:

(1) There is created in the State Treasury the "Examination Expense Revolving Fund" for the use of the department. The commissioner shall promptly deposit all funds received under a statute requiring examination expenses to be paid by the party examined and deposited with the State Treasurer to the credit of ***the***[~~such~~] fund.

(2) Moneys for travel, per diem, compensation and other necessary and authorized expenses incurred by an examiner or other department representative in the examination of any person required to pay, and making payment of, the expense of examination pursuant to KRS 304.2-290 shall be paid out of the examination expense revolving fund, upon approval of the commissioner.

(3) Moneys for travel[~~, compensation~~] and other necessary expenses[~~ of the custodian of insurance securities~~] assessed pursuant to KRS 304.8-190 shall be paid out of the examination expense revolving fund upon approval of the commissioner.

(4) If any amount in ***the***[~~such~~] revolving fund remains unexpended at the end of any fiscal year, that amount shall not lapse, but shall remain credited to the account and may be used during the succeeding year or years.

Section 2. KRS 304.3-320 is amended to read as follows:

(1) Foreign insurers currently admitted to do the business of life and health insurance in Kentucky and foreign insurers hereafter admitted to do the business of life and health insurance in Kentucky which are domiciled in states which have no life and health insurance guaranty association or similar guaranty fund in operation may be required by the commissioner,

in order to protect Kentucky policyholders, to ***furnish to the commissioner a*** deposit ***of cash or***[~~with the custodian of insurance securities~~] publicly-traded securities having a market value of not less than one hundred thousand dollars ($100,000) nor more than one million dollars ($1,000,000).

(2) In establishing the amount of the deposit required by subsection (1) of this section for a particular insurer, the commissioner shall consider the following factors:

(a) The amount of Kentucky writings;

(b) The amount of policy reserves and claim reserves pertaining to Kentucky risks;

(c) The kind of insurance written in Kentucky;

(d) The current financial and operating test results of the insurer provided by the National Association of Insurance Commissioners under its insurance regulatory information system; and

(e) Any other relevant financial data.

Section 3. KRS 304.8-010 is amended to read as follows:

(1) All deposits of assets of insurers required or permitted under this code and made in this state shall be made and maintained with the ***commissioner.***[~~custodian of insurance securities of this state, hereinafter called "custodian."~~]

(2) In addition to deposits required for an insurer's authority to transact insurance in this state, an insurer may deposit and maintain with the ***commissioner***[~~custodian~~] deposit of assets:

(a) Required of an insurer by the laws of other states as prerequisite for authority to transact insurance in such other states.

(b) Required by application of the retaliatory provision, KRS 304.3-270.

(c) In such additional amounts as is permitted by this subtitle, or as expressly required by this code.

Section 4. KRS 304.8-020 is amended to read as follows:

(1) All[~~ such~~] deposits shall be held by the ***commissioner***[~~custodian~~] in trust for the benefit and protection of all of the insurer's policyholders and creditors in the United States.

(2) The deposit of a domestic insurer shall further be security for payment of taxes, assessments, forfeitures, fines, or other charges due and unpaid to this state or any other state in which the insurer has been authorized to transact insurance, and may be applied to ***the***[~~such~~] extent as may be necessary for[~~ such~~] payment.

(3) Except, that deposits required pursuant to the retaliatory provision, KRS 304.3-270, or required of a domestic insurer pursuant to the laws of another state, may be limited to ***the***[~~such~~] uses and purposes as ***are***[~~is~~] consistent with ***the***[~~such~~] provision or laws. But no[~~ such~~] deposit so required of a domestic insurer shall be allowed in lieu of or as a credit upon any deposit required of ***an***[~~such~~] insurer under this subtitle if the purpose of ***the***[~~such~~] deposit so required by another state is materially inconsistent with the purpose stated in subsection (1) of this section.

Section 5. KRS 304.8-040 is amended to read as follows:

(1) The commissioner may accept the home office real property of a domestic insurer as a part of any deposit of assets required of the insurer under this code. For ***this***[~~such~~] purpose the insurer shall convey such real property by deed to the commissioner, and the deed shall be duly recorded and deposited with the ***commissioner***[~~custodian~~].

(2) Real property so deposited shall not be sold or further encumbered by the insurer except upon advance approval of the commissioner after full submission of the purposes and detail of ***the***[~~any such~~] sale or encumbrance to the commissioner. The commissioner shall join in the execution of any deed or other document required to consummate ***the***[~~such~~] sale or encumbrance. Upon ***the***[~~any such~~] sale or encumbrance the insurer shall deposit other assets in lieu of ***this***[~~such~~] real property.

(3) ***This***[~~Such~~] real property shall be valued at its fair value as determined by the commissioner.

Section 6. KRS 304.8-095 is amended to read as follows:

Notwithstanding any other provision of law, the commissioner may cause any or all deposits of assets of insurers required or permitted under this code and maintained in this state to be made and maintained in trust with depositories designated pursuant to KRS 304.8-090(1) under trust agreements to which ***the***[~~such~~] depositories, insurers, and the commissioner are parties, for the purpose of this subtitle. ***These***[~~Such~~] trust agreements shall provide with respect to deposits thereunder provisions, conditions and stipulations corresponding to those applicable to other deposits under this subtitle and shall require ***the***[~~such~~] depositories to perform the same duties with respect to deposits thereunder as the ***commissioner***[~~custodian of insurance securities~~] is required to perform with respect to other deposits under the subtitle. Insurers who have made deposits under ***these***[~~such~~] trust agreements shall be relieved of all other obligations under this subtitle with respect to the assets deposited thereunder.

Section 7. KRS 304.8-100 is amended to read as follows:

As to each insurer making or having a deposit the commissioner[~~ and custodian~~] shall keep a complete record thereof showing:

(1) The particular assets so deposited.

(2) The face value, if any, of any[~~ such~~] asset, and the value thereof as determined by the commissioner.

(3) Date of deposit, and place thereof.

(4) Assets withdrawn, date thereof, value of assets so withdrawn, and the name and address of any person to whom ***the***[~~such~~] assets were delivered.

(5) ***All***[~~Such~~] other information as the commissioner deems necessary.

Section 8. KRS 304.8-110 is amended to read as follows:

(1) The commissioner may at any time inventory assets on deposit as to any insurer. Upon request of the insurer the commissioner shall make[~~ such~~] an inventory at the insurer's expense, and shall furnish the insurer a copy thereof. All inventories shall be made in the presence of the commissioner and two (2) representatives of the insurer designated for the purpose by its board of directors.

(2) Upon request, the ***commissioner***[~~custodian~~] shall give to any insurer depositing assets a certificate thereof describing the assets and setting forth their par value, if any, and their value, which valuation shall be ***determined by***[~~subject to the approval of~~] the commissioner.

Section 9. KRS 304.8-150 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every domestic life insurer shall, within ninety (90) days after the net cash value of each policy in force has been ascertained as required by law, deposit with the ***commissioner***[~~custodian of insurance securities~~] for the security and benefit of its policyholders, assets in an amount which, together with ***the***[~~such~~] sums as may be deposited by it with other states and governments by the requirements of their laws, shall be not less than the ascertained valuation of all policies in force less any sums that it has advanced from its legal reserve to its policyholders on the pledge to it of their policies and any accumulations thereon.

(2) If the legal reserve or the aggregate ascertained valuation of all policies in force in any domestic life insurer equals $20,000,000, no further deposit shall be required of the insurer so long as the legal reserve remains at or above $20,000,000, unless the insurer elects to represent on its policies or otherwise that the legal reserve or cash value of its policies thereafter written is on deposit with this state or one or more of its designated agencies, in which event the insurer shall deposit assets as above set out in an amount equal to the ascertained valuation of all of its policies in force at the time the representation is made.

Section 10. KRS 304.8-170 is amended to read as follows:

(1) Any[~~ such~~] required deposit shall be released, in addition to circumstances already provided for, in these instances only:

(a) Upon extinguishment of substantially all liabilities of the insurer for the security of which the deposit is held, by reinsurance contract or otherwise.

(b) If ***the***[~~such~~] deposit is no longer required under this code.

(c) If the deposit was made pursuant to the retaliatory provision, KRS 304.3-270, it shall be released in whole or in part when no longer so required.

(d) Upon proper order of a court of competent jurisdiction the deposit shall be released to the receiver, conservator, rehabilitator, or liquidator of the insurer.

(2) No[~~ such~~] release shall be made except on application to and written order of the commissioner made upon proof satisfactory to him of the existence of one of ***the***[~~such~~] grounds therefor.[~~ The custodian shall release the deposit upon such order of the commissioner.~~] The commissioner shall not have any personal liability for any such release of any deposit or part thereof so ordered by him in good faith.

(3) All release of deposits or any part thereof shall be made to the person then entitled thereto upon proof of right satisfactory to the commissioner.

Section 11. KRS 304.8-180 is amended to read as follows:

(1) Access shall not be had to the vaults wherein the assets are deposited, nor shall any [~~such ~~]assets be removed therefrom, except upon the written order of at least two (2) officers authorized for the purpose by the insurer's board of directors or other governing body, which order must have been approved by the commissioner.

(2) The vaults wherein assets are deposited shall be opened and assets deposited or removed only in the joint presence of the ***commissioner***[~~custodian~~] and two (2) representatives of the insurer authorized for the purpose by the insurer's board of directors or other governing body.

(3) Except, that the vaults may be opened and assets deposited or removed under the direction and upon the order of a court of competent jurisdiction, and in the presence of the ***commissioner***[~~custodian~~].

Section 12. KRS 304.8-190 is amended to read as follows:

(1) Insurers maintaining deposits of assets in this state under this subtitle, shall pay into the examination expense revolving fund as provided in Subtitle 2 of this chapter, moneys sufficient to pay travel[~~, compensation~~] and other necessary expenses of the ***commissioner related to the maintenance, valuation, protection, or administration of the insurer's***

deposits[~~custodian of insurance securities, through the office of the commissioner of insurance~~].

(2) The portion of ***the***[~~such~~] expense fund to be paid by each[~~ such~~] insurer shall be in the same approximate proportion as the amount ***the***[~~such~~] insurer had on deposit on December 31 of the preceding year bears to the total[~~ such~~] deposits of all insurers as of December 31 of the preceding year. The commissioner shall assess each insurer for its proportionate share of ***the***[~~such~~] expense fund. The minimum charge for each insurer shall be five dollars ($5).

Section 13. KRS 304.32-140 is amended to read as follows:

(1) No corporation subject to provisions of this subtitle shall be permitted to do any business in this state unless, in addition to the other requirements of law, it shall have and maintain liquid reserves in an amount not less than five percent (5%) of the corporation's subscription income collected in the preceding year not exceeding two million dollars ($2,000,000), plus two and one-half percent (2.5%) of income exceeding two million dollars ($2,000,000) but not exceeding ten million dollars ($10,000,000), plus one percent (1%) of income exceeding ten million dollars ($10,000,000); but in no event shall reserves be less than five hundred thousand dollars ($500,000). All corporations subject to the provisions of this subtitle shall place on deposit with the ***commissioner***[~~custodian of insurance securities~~] a guarantee fund of cash or approved securities in an amount determined by this formula, but not less than five hundred thousand dollars ($500,000) nor more than one million five hundred thousand dollars ($1,500,000). Any amount of liquid reserves required by this subsection in excess of one million five hundred thousand dollars ($1,500,000) shall be maintained by the corporation at all times, but shall not be required to be placed on deposit, provided that such a corporation shall be allowed a period of five (5) years after July 15, 1982, to establish the liquid reserves and deposit the guarantee fund with the commissioner.

(2) The cash or securities representing the guarantee fund required by this section shall be acceptable to the ***commissioner***[~~custodian of insurance securities~~] and ***the***[~~such~~] securities shall be negotiable securities.

(3) The investments of a corporation subject to the provisions of this subtitle shall be the same kind of investments which life insurance companies are authorized to have.

Section 14. KRS 304.13-390 is amended to read as follows:

[~~(1)~~]***If the state fire marshal gives notice that any authorized insurer has failed to comply with the provisions of KRS 227.250, the commissioner may revoke or suspend the insurer's certificate of authority***[~~The commissioner shall ascertain as soon as practicable the annual fire loss in each municipality in the Commonwealth; obtain, make and maintain a record thereof and collect such data with respect thereto as will enable the commissioner to classify the fire losses in each municipality in the Commonwealth, the causes thereof, and the amount of premiums collected therefor for each class of risks and the amount paid thereon, in such manner as will aid in determining equitable insurance rates, methods of reducing such fire losses and reducing the insurance rates for risks in each municipality in the Commonwealth as provided in this section.~~

~~(2) The commissioner shall compile for each municipality in Kentucky a list of the insured fire losses in excess of five hundred dollars ($500) per loss paid in that municipality for the preceding statistical year.~~

~~(3) The list shall include:~~

~~(a) The names of persons recovering insured losses;~~

~~(b) The addresses or locations where the losses occurred; and~~

~~(c) The amount paid by the insurance company on each loss.~~

~~(4) The commissioner shall obtain the information to make the lists from insurance company reports of individual losses during the statistical year, either directly from such insurance companies or from such lawful rating organization or agency of which such insurance companies may be a member or subscriber.~~

~~(5) Each municipality shall examine its list to determine the losses actually occurring in its limits and shall make a report to the fire marshal, which report shall include:~~

~~(a) A list of the losses that occurred within the limits of the municipality;~~

~~(b) A list of the losses not occurring within the municipality; and~~

~~(c) Other evidence essential to establishing the losses in the municipality. The fire marshal shall transmit a copy of each municipality's report to the commissioner.~~

~~(6) The commissioner shall make such changes or corrections as he shall determine to be necessary in order to correct the list of insured fire losses paid in a particular municipality~~].

Section 15. KRS 304.24-320 is amended to read as follows:

(1) An insurer shall not pay any dividend to stockholders except out of that part of its surplus funds which is derived from any ***retained earnings***[~~realized net profits~~]. No cash dividend shall be paid nor distribution of assets made out of any surplus funds resulting from a decrease of capital stock effective within two (2) years prior to the declaration of the dividend.

(2) "Surplus funds" means the excess of the insurer's assets over its liabilities, including its capital stock as a liability.

Section 16. KRS 304.9-120 is amended to read as follows:

(1) Each applicant for license as agent, who is an independent contractor agent compensated on a commission basis, and each

applicant for license as a solicitor must be a bona fide resident of this state at the date of application for the license and must continue to be a resident of this state while so licensed.

(2) In determining the good faith of an applicant's claim to such residence, the commissioner may give due consideration to the following:

(a) The amount of time actually spent by the applicant within this state during the claimed residence period;

(b) The circumstances of such residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;

(c) The circumstances of the applicant, his past history and activities, and the probability that he will continue as a resident of this state indefinitely into the future if the license were to be issued;

(d) All other pertinent factors.

(3) The requirements of subsection (1) of this section shall not apply as to:

(a) One employed to manage the insurance agency of a deceased licensed resident agent;

(b) An applicant or agent residing in any part of a city located partly within this state, if the other state in which the city is located in part has established a like exception to any residency requirement;

(c)[~~ Life or health insurance agents;~~

~~(d)~~] Agents who are employees of the insurer or an affiliate of the insurer.

(4) The commissioner shall license as[~~ life~~] insurance agent any person, firm, or corporation who is otherwise qualified therefor under this code, but who is not a resident of this state, if by the laws of the state***, country,*** or province of the residence of such person, firm, or corporation, residents of this state may be licensed in ***that***[~~such~~] state***, country,*** or province as nonresident[~~ life and general lines~~] insurance agents and the commissioner may negotiate and enter into reciprocal arrangements with the insurance supervisory official of any other state***, country,*** or province under which the residence requirements of this subsection will be waived in favor of residents of ***the***[~~such~~] other state***, country,*** or province if like privileges in such other state or province are granted to residents of this state.

[~~(5) If, under the laws of any other state or province, greater restrictions regarding residents and personal qualifications are imposed upon the licensing of residents of this state as agents than those imposed upon the licensing of nonresidents of this state under the laws of this state, then the commissioner may, when he considers such action necessary for the protection of domestic insurers or resident agents, impose such greater restrictions upon the licensing of residents of such state or province.~~]

Section 17. KRS 304.9-130 is amended to read as follows:

(1) A firm or corporation may be licensed as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation each individual to act for the corporation under the license, shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee.

(2)[~~ An individual who does not meet the residence requirements as provided in KRS 304.9-120 shall not be so named in or registered as to such a license and shall not have the right to exercise the license powers.~~

~~(3)~~] A license shall not be issued to a firm or corporation unless[~~ it maintains a place of business in this state, and~~] the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles.

(3)[~~(4)~~]The licensee shall promptly notify the commissioner of all changes among its members, directors, officers and other individuals designated in or registered as to the license.

Section 18. KRS 304.9-140 is amended to read as follows:

[~~(1) Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a life insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement.~~

~~(2) Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105 except as to the residence requirement.~~

~~(3)~~]Nonresidents of this state[~~, other than those referred to in subsection (1) of this section,~~] may be licensed as insurance agents in this state without taking an examination if:

(1)[~~(a)~~]A written examination is required of applicants for an insurance agent's license in ***the***[~~such~~] other state***;***[~~.~~]

(2)[~~(b)~~]The appropriate official of ***the***[~~such~~] other state certifies that the applicant holds a currently valid license as an insurance agent in ***the***[~~such~~] other state and either passed ***the***[~~such~~] written examination or was the holder of an insurance agent's license prior to the time ***the***[~~such~~] written examination was required***;***[~~.~~]

(3)[~~(c)~~]In ***the***[~~such~~] other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of ***the***[~~such~~] other state.

[~~(4) Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state who is a full-time employee of an insurer or~~

~~an affiliate of an insurer, and not compensated on a commission basis, may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement, and may act as an agent in Kentucky under said license, provided that such insurer maintains a place of business in this state.~~]

Section 19. KRS 304.9-210 is amended to read as follows:

(1) The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and[~~ such~~] other conditions as the commissioner deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.

(2) The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent[~~, except as provided by subsection (5) of this section, as to limited licenses,~~] and the licensee may[~~, subject to KRS 304.9-220 as to life agents,~~] represent as ***an***[~~such~~] agent under the one license as many insurers as may appoint him therefor in accordance with this subtitle.

(3) The license of a solicitor shall show the name and address of the employer agent.

(4) The license of a consultant shall show whether the license is for a "general lines consultant" or a "life consultant."

[~~(5) Each limited license issued pursuant to KRS 304.9-230 shall show the name of the insurer so represented, and a separate license shall be required as to each such insurer.~~]

Section 20. KRS 304.32-120 is amended to read as follows:

If[~~When~~] the annual statement of a corporation subject to the provisions of this subtitle shall have been filed and all fees due from the corporation shall have been paid, the corporation's certificate of authority to do business in this state shall automatically be extended until[~~ such time as~~] the commissioner ***suspends, revokes, or*** refuses to relicense the corporation. ***If***[~~When~~] the fee involved in the renewal of an agent's license shall have been paid by the corporation, or the individual agent, the license shall automatically be extended until[~~ such time as~~] the commissioner ***suspends, revokes, or*** refuses to renew the license.

Section 21. KRS 304.32-180 is amended to read as follows:

(1) "Agent" means any person authorized by a corporation subject to the provisions of this subtitle and on its behalf to solicit applications for subscription or membership, or offers or assumes to act in the negotiation thereof.[~~ To qualify for an agent's license an applicant shall:~~

~~(a) Be above the age of eighteen (18) years;~~

~~(b) Be a bona fide resident of and actually reside in this state;~~

~~(c) Be a trustworthy person;~~

~~(d) Be appointed as an agent by one (1) or more corporations subject to the provisions of this subtitle;~~

~~(e) Make application to the commissioner in the manner and form prescribed by him. As a part or in connection with any application, the applicant shall furnish information concerning his identity, personal history, experience, business record, purposes, and any other information the commissioner may reasonably require;~~

~~(f) Pay the fee provided in Subtitle 4 of this chapter; and~~

~~(g) Take an examination given by the commissioner as a test of his qualifications and competence.~~]

(2) ***Agents of nonprofit hospital, medical-surgical, dental and health service corporations shall be licensed as health insurance agents in accordance with Subtitle 9 of this chapter and shall be subject to all provisions of Subtitle 9 of this chapter relating to health insurance agents***[~~Agents' licenses shall expire at midnight on March 31 unless the licensee prior thereto has filed with the commissioner, on forms prescribed and furnished by him, a request for continuation of license accompanied by payment of the renewal fee as provided in Subtitle 4 of this chapter, except that any request for continuation filed with the commissioner after such March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his discretion, if accompanied by a penalty as prescribed in Subtitle 99 of this chapter.~~

~~(3) Agents shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) must be classroom hours, during each continuing education biennium, as provided by KRS 304.9-295 and any administrative regulations promulgated thereunder~~].

Section 22. KRS 304.38-110 is amended to read as follows:

Agents of health maintenance organizations shall be licensed as health insurance agents in accordance with Subtitle 9 of this chapter and shall be subject to all provisions of Subtitle 9 of this chapter relating to health insurance agents[~~(1) The commissioner shall promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents, and the termination or revocation of such license~~]. An "agent" means any person directly or indirectly associated with ***the***[~~such~~] organization who engages in solicitation or enrollment of persons for profit or pecuniary gain in a health maintenance organization.

[~~(2) Agents shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) must be classroom hours, during each continuing education biennium, as provided in KRS 304.9-295 and any administrative regulations promulgated thereunder.~~]

Section 23. KRS 304.38-200 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 3 -- Authorization of Insurers and General Requirements;
(4) Subtitle 4 -- Fees and Taxes;
(5) Subtitle 5 -- Kinds of Insurance -- Limits of Risk -- Reinsurance;
(6) Subtitle 6 -- Assets and Liabilities;
(7) Subtitle 7 -- Investments;
(8) Subtitle 8 -- Administration of Deposits;
(9) ***Subtitle 9 -- Agents, Consultants, Solicitors, and Adjusters;***
(10) Subtitle 12 -- Trade Practices and Frauds;
(11)[~~(10)~~] Subtitle 14 -- KRS 304.14-500 to 304.14-560;
(12)[~~(11)~~] Subtitle 17A -- Health Benefit Plans;
(13) Subtitle 24 -- Domestic Stock and Mutual Insurers;
(14)[~~(12)~~] Subtitle 25 -- Continuity of Management;
(15)[~~(13)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(16)[~~(14)~~] Subtitle 37 -- Insurance Holding Company Systems; and
(17)[~~(15)~~] Subtitle 99 -- Penalties.

Section 24. KRS 304.43-080 is amended to read as follows:

Agents of prepaid dental plan organizations shall be licensed as health insurance agents in accordance with Subtitle 9 of this chapter and shall be subject to all provisions in Subtitle 9 of this chapter relating to health insurance agents[~~(1) A prepaid dental plan shall register the names of all persons acting as its agents with the commissioner within thirty (30) days after July 15, 1982.~~

~~(2) The commissioner shall, within one (1) year from July 15, 1982, promulgate such reasonable rules and regulations as are necessary to provide for the licensing of agents, and the termination or revocation of such licenses.~~

~~(3) Agents shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) must be classroom hours, during each continuing education biennium, as provided by KRS 304.9-295 and any administrative regulations promulgated thereunder~~].

Section 25. KRS 304.48-100 is amended to read as follows:

Agents of liability self-insurance groups shall be licensed as insurance agents in accordance with Subtitle 9 of this chapter and shall be subject to all provisions of Subtitle 9 of this chapter relating to health insurance agents[~~The commissioner shall promulgate reasonable administrative regulations as are necessary to provide for the licensing of agents appointed or sponsored by the liability self-insurance group and the termination or revocation of such license~~].

Section 26. KRS 304.3-150 is amended to read as follows:

To apply for an original certificate of authority an insurer shall file with the commissioner its written application therefor on forms as prescribed and furnished by the commissioner, accompanied by the applicable fees specified in Subtitle 4, stating under the oath of the president or vice-president or other chief officer and the secretary of the insurer, or of the attorney-in-fact (if a reciprocal insurer or Lloyd's plan insurer), the insurer's name, location of its principal office, the kinds of insurance to be transacted, date of organization or incorporation, form of organization, its domicile, and any additional information as the commissioner may reasonably require, together with the following documents, as applicable:

(1) If a corporation, a copy of its charter, together with all amendments thereto, or as restated and amended under the laws of its state or country of incorporation, currently certified by the public official with whom the originals are on file in a state or country.

(2) A copy of its bylaws, certified by the insurer's secretary.

(3) If a reciprocal insurer, a copy of the power of attorney of its attorney-in-fact, and copy of its subscribers agreement, if any, both certified by the attorney-in-fact; and if a domestic reciprocal insurer, the declaration provided for in ***Section 53 of this Act***[~~KRS 304.2-060~~].

(4) If a Lloyd's plan insurer, the names and addresses of all of the underwriters proposing to engage in the business, along with the number of underwriters which shall not be less than twenty-five (25), and that each underwriter is worth in his own right not less than twenty thousand dollars ($20,000) over and above all his liabilities, along with a statement

showing a list of all cash and invested assets owned by the associated underwriters and their value, certified and sworn to by their duly authorized attorney-in-fact.

(5) A complete copy of its financial statement as of not earlier than the December 31 next preceding in form as customarily used in the United States by like insurers, sworn to by at least two (2) executive officers of the insurer or certified by the public insurance supervisory official of the insurer's state or country of domicile.

(6) A copy of the report of last examination of the insurer prior to the filing of the application, certified by the public insurance supervisory official of the insurer's state or country of domicile.

(7) If a foreign or alien insurer, the name and address of the person to whom the Secretary of State shall forward lawful process served upon him. If a domestic reciprocal insurer, the name and address of the attorney designated pursuant to paragraph (e) of subsection (2) of KRS 304.27-060 shall be deemed to be the person to whom the Secretary of State shall forward lawful process served upon him. Any judgment against a domestic reciprocal so served shall be binding upon each of the insurer's subscribers as their respective contingent liabilities.

(8) If a foreign or alien insurer, a certificate of the public insurance supervisory official of its state or country of domicile showing that it is authorized or qualified for authority to transact in a state or country the kinds of insurance proposed to be transacted in this state.

(9) If an alien insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140, and a copy of the trust deed, if any, pertaining to a deposit, certified by the trustee.

(10) If a foreign insurer, a certificate as to deposit, if to be tendered pursuant to subsection (4) of KRS 304.3-140.

(11) ~~[If a life or health insurer,]~~A copy of the insurer's rate book and of each form of policy currently proposed to be issued in this state, and of the form of application therefor.

(12) If an alien insurer, a copy of the appointment and authority of its United States manager, certified by its officer having custody of its records.

(13) Designation by the insurer of its officers or representatives authorized to appoint and remove its agents in this state.

(14) If to transact surety insurance, the names and addresses of all its attorneys in fact within this state together with the scope of authority of each attorney-in-fact.

Section 27. KRS 304.29-281 is amended to read as follows:

Societies shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 of this chapter for determining market conduct and business practices

~~[(1) The commissioner, or any person he may appoint, may examine any domestic, foreign or alien society transacting or applying for admission to transact business in this state in the same manner as authorized for examination of domestic, foreign or alien insurers. Requirements of notice and an opportunity to respond before findings are made public, as provided in the laws regulating insurers, shall also be applicable to the examination of societies.~~

~~(2) The expense of each examination and of each valuation, including compensation and actual expense of examiners shall be paid by the society examined or whose certificates are valued, upon statements furnished by the commissioner]~~.

Section 28. KRS 304.30-060 is amended to read as follows:

(1) Every licensee shall maintain records of its premium finance transactions and the ~~[said]~~records shall be open to examination and investigation by the commissioner. ~~[The commissioner may at any time require any licensee to bring such records as he may direct to the commissioner's office for examination. Any examination or any part of the examination of any organization subject to the provisions of Subtitle 30 of this chapter shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter.]~~

(2) Every licensee shall preserve its records of~~[such]~~ premium finance transactions, including cards used in a card system, for at least ***five (5)***~~[three (3)]~~ years after making the final entry in respect to any premium finance agreement. The preservation of records in photographic form shall constitute compliance with this requirement.

(3) For the purpose of determining market conduct, business practices, financial condition, ability to fulfill and manner of fulfillment of its obligations, the nature of its operations and compliance with law, the commissioner shall examine the affairs, transactions, accounts, records, and assets of each licensed premium finance company as often as reasonably necessary.

(4) Premium finance companies shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-370, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 of this chapter for determining market conduct and business practices.

Section 29. KRS 304.32-030 is amended to read as follows:

(1) Any nonprofit corporation organized under the laws of this state for the purpose of establishing, maintaining, and operating a nonprofit plan, whereby hospital care, medical-surgical care, dental care, and other health services are made

available to persons who become subscribers to ***a***[~~such~~] plan or plans under a contract with the corporation, shall be subject to and be governed by the provisions of this subtitle, and shall be exempt from all other provisions of this code, except as herein expressly provided in ***this subtitle***[~~KRS 304.32-270~~], and no insurance law hereafter enacted shall be deemed to apply to ***these***[~~such~~] corporations unless they be specifically referred to therein.

(2) Except as provided in KRS 304.32-300 to 304.32-320, the provisions of this subtitle shall not apply to any employer's self-insured health plan or service established and maintained solely for its members and their immediate families, or to any self-insured health plan or service established, maintained, and insured jointly by any employer and any labor organization or organizations.

Section 30. KRS 304.32-210 is amended to read as follows:

(1) Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-370, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 of this chapter for determining market conduct and business practices[~~The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any corporation subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the corporation, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any corporation, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each corporation subject to the provisions of this subtitle at least once every four (4) years~~].

(2) Each corporation subject to the provisions of this subtitle may own and invest or have invested any of its funds in its principal office building not to exceed an amount which would reduce its surplus, exclusive of the investment, below $50,000, unless approved by the commissioner.

Section 31. KRS 304.38-120 is amended to read as follows:

Health maintenance organizations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-370, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 of this chapter for determining market conduct and business practices[~~(1) The commissioner, or any person authorized by him, shall have power to examine the financial condition, affairs, and management of any organization subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any organization, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each organization subject to the provisions of this subtitle at least once every three (3) years.~~

~~(2) Any examination, or any part of the examination of any organization subject to the provisions of this subtitle, shall be made by the commissioner or by examiners designated by him and shall be at the expense of the organization examined as specified in Subtitle 2 of this chapter~~].

Section 32. KRS 304.43-090 is amended to read as follows:

Prepaid dental plan organizations shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-370, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 for determining market conduct and business practices[~~(1) The commissioner, or any person authorized by him, shall have power to examine the financial condition, ownership or stockholder information, affairs, and management of any organization subject to the provisions of KRS 304.43-010 to 304.43-130. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents, representatives, or employees of any organization, or any other person in relation to its affairs, transactions, and conditions. The commissioner shall make an examination of each organization subject to the provisions of KRS 304.43-010 to 304.43-130 at least once every three (3) years.~~

~~(2) Any examination, or any part of any examination of any organization subject to the provisions of KRS 304.43-010 to 304.43-130, shall be at the expense of the organization examined and shall be subject to the provisions of KRS 304.2-290 and 304.2-300 in the same manner as an insurer.~~

~~(3) The report of examination of a prepaid health care benefit plan shall not be for public inspection except as to those portions of the report showing the current financial condition. The comments and recommendations of the examiners shall be deemed confidential information and shall not be available for public inspection, except that the commissioner may in his discretion furnish the complete report to any other supervisory official of another state upon request~~].

Section 33. KRS 304.48-110 is amended to read as follows:

Liability self-insurance groups shall be subject to the provisions of KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-370, 304.2-280, 304.2-290, and 304.2-300, and to the provisions of Subtitle 2 of this chapter for determining market conduct and business practices[~~The commissioner or any person authorized by him shall have power to examine the financial condition, affairs, and management of any liability self-insurance group subject to the provisions of this subtitle. He shall have free access to all the books, papers, and documents relating to the business of the organization, and may summon witnesses and administer oaths and affirmations in the examination of the directors, trustees, officers, agents,~~

~~representatives, or employees of any group, or any person in relation to its affairs, transactions, or conditions. He shall so examine each liability self-insurance group subject to the provisions of this subtitle not less frequently than every four (4) years. Information and other data obtained through the examination shall be subject to the provisions of KRS 304.2-210 to 304.2-290~~].

Section 34. KRS 304.2-080 is amended to read as follows:

(1) The commissioner or any deputy, examiner, actuary, assistant or employee of the department, shall not be connected with the management of, or be financially interested, directly or indirectly, in any insurer, insurance agency or broker, or insurance transaction except as policyholder or claimant under a policy; except, that as to matters wherein a conflict of interest does not exist on the part of any[~~ such~~] individual, the commissioner may employ or retain from time to time insurance actuaries, examiners, accountants, attorneys, or other technicians who are independently practicing their profession even though from time to time similarly employed or retained by insurers or others.

(2) No person shall directly or indirectly give or pay to the commissioner or any deputy, examiner, actuary, assistant, employee or technician retained by the department; and the commissioner, or any deputy, examiner, actuary, assistant, employee or technician retained by the department, shall not directly or indirectly receive or accept any fee, compensation, loan, gift or other thing of value in addition to the compensation and expense allowance provided by law, or by contract with the commissioner, for any service rendered or to be rendered, as[~~ such~~] commissioner, deputy, examiner, actuary, assistant, employee or technician, or in connection therewith.

(3) Subsection (1) of this section shall not be deemed to prohibit receipt by any[~~ such~~] person of commissions or retirement benefits to which entitled by reason of services performed prior to becoming commissioner or prior to employment by the commissioner.

[~~(4) This section shall not be deemed to prohibit appointment and functioning of the commissioner as process agent of insurers or of nonresident licensees as provided for in this code.~~]

Section 35. KRS 304.28-070 is amended to read as follows:

Action on any policy or contract of insurance made by the attorney for the underwriters may be brought against the attorney or against the attorney and the underwriters or any of them. In ***an***[~~such~~] action, summons and process shall be served on either the ***Secretary of State as provided in KRS 304.3-230***[~~commissioner~~] or on the attorney and when so served shall have the same force and effect as if served on the attorney and on each underwriter personally. A judgment in any such action against the attorney or against any of the underwriters shall be binding upon and be a judgment against each and all of the underwriters as their several liabilities may appear in the contract of insurance on which the action is brought.

Section 36. KRS 304.27-070 is amended to read as follows:

(1) The certificate of authority of a reciprocal insurer shall be issued to its attorney in the name of the insurer.

(2) The commissioner may refuse, suspend or revoke the certificate of authority, in addition to other grounds therefor***, including those provided in Subtitles 2 and 3 of this chapter***, for failure of the attorney to comply with any applicable provision of this code.

Section 37. KRS 304.32-270 is amended to read as follows:

Nonprofit hospital, medical-surgical, dental, and health service corporations shall be subject to the provisions of this subtitle, and to the following provisions of this code, to the extent applicable and not in conflict with the express provisions of this subtitle:

(1) Subtitle 1 -- Scope -- General Definitions and Provisions;
(2) Subtitle 2 -- Insurance Commissioner;
(3) Subtitle 7 -- Investments;
(4) Subtitle 8 -- Administration of Deposits;
(5) Subtitle 12 -- Trade Practices and Frauds;
(6) Subtitle 25 -- Continuity of Management;
(7) Subtitle 33 -- Insurers Rehabilitation and Liquidation;
(8) Subtitle 18 -- KRS 304.18-110, 304.18-120 -- Group Conversion and KRS 304.18-045;
(9) Subtitle 4 -- Fees and Taxes;
(10) Subtitle 99 -- Penalties;
(11) Subtitle 14 -- KRS 304.14-500 to 304.14-560;[~~ and~~]
(12) Subtitle 17A -- Health Benefit Plans***;***
(13) Subtitle 3 -- Authorization of Insurers and General Requirements; and
(14) Subtitle 9 -- Agents, Consultants, Solicitors, and Adjusters.

SECTION 38. A NEW SECTION OF SUBTITLE 32 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) If the certificate of authority of a corporation is suspended, the corporation shall not, during the period of the

suspension, enroll any additional subscribers or members except newborn children or other newly acquired dependents of existing subscribers or members, and shall not engage in any advertising or solicitation whatsoever.

(2) If the certificate of authority of a corporation is revoked, the corporation shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of the corporation. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit further operation of the corporation as he may find to be in the best interest of subscribers or members, to the end that subscribers or members will be afforded the greatest practical opportunity to obtain continuing coverage. If the commissioner permits further operation, the corporation will continue to collect the dues and fees required of subscribers or members.

Section 39. KRS 304.38-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any certificate of authority issued to a health maintenance organization under this subtitle if ***the commissioner finds that any of the conditions exist for which the commissioner could suspend or revoke a certificate of authority as provided in Subtitles 2 and 3 of this chapter or if the commissioner***[~~he~~] finds that any of the following conditions exist:

- (a) The health maintenance organization is operating significantly in contravention of its basic organizational document or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.38-040, unless amendments to such submissions have been filed with and approved by the commissioner;
- (b) The health maintenance organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.38-050 ***or Subtitle 17A of this chapter***;
- (c) The health maintenance organization does not provide or arrange for health care services as approved by the commissioner in KRS 304.38-050(1)(a);
- (d) The certificate of need and licensure board certifies to the commissioner that the health maintenance organization fails to meet the requirements of the board or that the health maintenance organization is unable to fulfill its obligations to furnish health care services;
- (e) The health maintenance organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to enrollees or prospective enrollees;
- (f) The health maintenance organization, or any person on its behalf, has advertised or merchandised its services in an untrue, misrepresentative, misleading, deceptive, or unfair manner;
- (g) The continued operation of the health maintenance organization would be hazardous to its enrollees;
- (h) The health maintenance organization has otherwise failed to substantially comply with this subtitle.

(2) ***If***[~~A certificate of authority shall be suspended or revoked only after compliance with the hearing procedures set out in Subtitle 2.~~

~~(3) When~~] the certificate of authority of a health maintenance organization is suspended, the health maintenance organization shall not, during the period of ***the***[~~such~~] suspension, enroll any additional enrollees except newborn children or other newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(3)[~~(4)~~]***If***[~~When~~] the certificate of authority of a health maintenance organization is revoked, ***the***[~~such~~] organization shall proceed, immediately following the effective date of the order of revocation, to wind up its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of ***the***[~~such~~] organization. It shall engage in no further advertising or solicitation whatsoever. The commissioner may, by written order, permit[~~ such~~] further operation of the organization as ***the commissioner***[~~he~~] may find to be in the best interest of enrollees, to the end that enrollees will be afforded the greatest practical opportunity to obtain continuing health care coverage. If the commissioner permits [~~such~~]further operation the health maintenance organization will continue to collect the periodic prepayments required of enrollees.

Section 40. KRS 304.38-170 is amended to read as follows:

(1) All applications, filings, and reports required under this subtitle shall be treated as public documents, except as otherwise provided for herein.

(2) The[~~ insurance law and the~~] nonprofit hospital, medical-surgical, dental, and health service corporation law of this state shall not be applicable to any health maintenance organization granted a certificate of authority under this subtitle. This provision does not apply to an insurer or hospital or medical service corporation licensed and regulated pursuant to the insurance laws or the hospital or medical service corporation laws of this state except with respect to its health maintenance organization activities authorized and regulated pursuant to this subtitle.

Section 41. KRS 304.43-100 is amended to read as follows:

(1) The commissioner may suspend or revoke any certificate of authority issued to a prepaid dental plan organization under ***this subtitle if the commissioner finds that any of the conditions exist for which the commissioner could suspend or***

revoke a certificate of authority as provided in Subtitle 2 or 3 of this chapter or if the commissioner[~~KRS 304.43-010 to 304.43-130 if he~~] finds that any of the following conditions exist:

(a) The organization is operating significantly in contravention of its basic organizational documents or in a manner contrary to that described in and reasonably inferred from any other information submitted under KRS 304.43-020, unless amendments to such submissions have been filed with and approved by the commissioner;

(b) The organization issues evidence of coverage or uses a schedule of charges for health care services which do not comply with the requirements of KRS 304.43-030;

(c) The organization does not provide or arrange for dental care services under KRS 304.43-030;

(d) The organization is no longer financially responsible and may reasonably be expected to be unable to meet its obligations to its enrollees; or

(e) The organization has otherwise failed to substantially comply with ***this subtitle***[~~KRS 304.43-010 to 304.43-130~~].

(2) ***If***[~~A certificate of authority shall be suspended or revoked only after compliance with the hearing procedures set out in accordance with Subtitle 2 of KRS Chapter 304.~~

~~(3) When~~] the certificate of authority of a prepaid dental plan organization is suspended, the organization shall not, during the period of ***the***[~~such~~] suspension, enroll any additional enrollees except newly acquired dependents of existing enrollees, and shall not engage in any advertising or solicitation whatsoever.

(3)[~~(4)~~]***If***[~~When~~] the certificate of authority for a prepaid dental plan organization is revoked, ***the***[~~such~~] organization shall proceed, immediately following the effective date of the order of revocation, to conclude its affairs, and shall conduct no further business except as may be essential to the orderly conclusion of the affairs of ***the***[~~such~~] organization. It shall engage in no further advertisement or solicitation whatsoever. The commissioner may, by written order, permit[~~ such~~] further operation of the organization as ***the commissioner***[~~he~~] may find to be in the interest of enrollees, to the end that the enrollees will be afforded their greatest practical opportunity to obtain continuing dental care coverage. If the commissioner permits [~~such ~~]further operation, the prepaid dental plan organization shall continue to collect the periodic prepayments required of the enrollees.

SECTION 42. A NEW SECTION OF SUBTITLE 48 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Liability self-insurance groups shall be subject to the provisions of Subtitles 1 and 2 of this chapter to the extent applicable and not in conflict with the expressed provisions of this subtitle.

Section 43. KRS 304.43-110 is amended to read as follows:

Any rehabilitation or liquidation of a prepaid dental plan organization shall be conducted under the supervision of the commissioner[~~ pursuant to and~~] in accordance with ***either*** Subtitle 33 of KRS Chapter 304 ***or KRS 304.24-430***.

Section 44. KRS 304.24-500 is amended to read as follows:

(1) The purpose of this section is to:

(a) Provide a means whereby any insurer organized under the laws of any other state may become a domestic insurer;

(b) Provide a means for any domestic insurer to transfer its domicile to another state; and

(c) Provide a means for the continuation of a certificate of authority and other approvals pertaining to any foreign insurer which transfers its corporate domicile to another state by merger, consolidation, or any other lawful method.

(2) Any insurer which is organized under the laws of any other state and is admitted to do business in this state for the purpose of writing insurance may***, upon approval of the commissioner,*** become a domestic insurer by complying with all of the requirements of this chapter relating to the organization and authorization of a domestic insurer of the same type and by designating its principal place of business at a place in this state. ***The***[~~Such a~~] domestic insurer ***shall***[~~will~~] be entitled to like certificates of authority to transact business in this state, and shall be subject to the authority and jurisdiction of this state.

(3) Any domestic insurer may, upon approval of the commissioner, transfer its domicile to any other state in which it is admitted to transact the business of insurance. Upon ***the***[~~such a~~] transfer ***the***[~~such an~~] insurer shall cease to be a domestic insurer, and shall be authorized to transact insurance business in this state if qualified as a foreign insurer. The commissioner shall approve ***the***[~~any such~~] proposed transfer unless ***the commissioner***[~~he~~] shall determine ***the***[~~such~~] transfer is not in the interest of the policyholders of this state.

(4) The certificate of authority, agents' appointments and licenses, rates, and other items which the commissioner allows, in ***the commissioner's***[~~his~~] discretion, which are in existence at the time any insurer authorized to transact the business of insurance in this state transfers its corporate domicile to this or any other state by merger, consolidation, or merger pursuant to KRS 271B.11-070, or any other lawful method, shall continue in full force and effect upon ***the***[~~such~~] transfer if ***the***[~~such~~] insurer remains duly qualified to transact the business of insurance in this state. All outstanding policies of any transferring insurer shall remain in full force and effect and need not be endorsed as to the new name of the insurer or

its new location unless so ordered by the commissioner. Every transferring insurer shall file new policy forms with the commissioner on or before the effective date of the transfer but may use existing policy forms with appropriate endorsements if allowed by, and under such conditions as approved by, the commissioner. However, every transferring insurer shall notify the commissioner in writing of the details of the proposed transfer and shall file promptly appropriate amendments to corporate documents required to be filed with the commissioner.

(5) (a) Any insurer transferring its domicile in accordance with subsection (2) or (3) of this section shall file an application for redomestication and transfer of domicile with the commissioner. This transfer of domicile must be approved by order of the commissioner. If the commissioner does not approve the transfer of domicile, the applicant insurer may request a hearing under KRS 304.2-310(2)(b).

(b) An application filed to become a domestic insurer in accordance with subsection (2) of this section shall include a notice of transfer of domicile to the Secretary of State and the articles, amended articles, or restated articles of incorporation in compliance with KRS 271B.200.

(c) An application filed by a domestic insurer to transfer its domicile to another state in accordance with subsection (3) of this section shall include a copy of the order approving the redomestication issued by the new state of domicile.

SECTION 45. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Documents, materials, or other information in the possession or control of the commissioner that are deemed confidential by subsection (3) of this section or by this chapter shall be confidential by law and privileged, shall not be subject to the Kentucky Open Records Act, KRS 61.872 to 61.884, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action. However, the commissioner is authorized to use the documents, materials, or other information in the furtherance of any regulatory or legal action brought as a part of the commissioner's official duties.

(2) Neither the commissioner nor any person who received documents, materials, or other information while acting under the authority of the commissioner shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to subsection (1) of this section.

(3) In order to assist in the performance of the commissioner's duties, the commissioner:

(a) May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to subsection (1) of this section, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and with state, federal, and international law enforcement authorities, if the recipient agrees to maintain the confidentiality and privileged status of the document, material, or other information;

(b) May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any document, material, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the document, material, or information; and

(c) May enter into agreements governing sharing and use of information consistent with this subsection.

(4) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner under this section or as a result of sharing as authorized in subsection (3) of this section.

Section 46. KRS 304.2-150 is amended to read as follows:

(1) The commissioner shall carefully preserve in the department and in permanent form, a correct account of all ***the commissioner's***~~[his]~~ transactions and of all fees and moneys received by ***the commissioner***~~[him]~~ by virtue of ***the***~~[his]~~ office, together with all financial statements, examination reports, correspondence, filings, and documents duly received by the department. The commissioner shall hand the same over to ***the commissioner's***~~[his]~~ successor in office.

(2) The commissioner shall keep a suitable record of all insurer certificates of authority and of all licenses issued under this code, together with all applicable suspensions and revocations and of the causes thereof.

(3) Unless otherwise provided by law, records of the department shall be open to the extent provided by the Kentucky Open Records Act, KRS 61.872 to 61.884:

(a) The following records shall be open:

1. Rate and form filings and information filed in support thereof;
2. Other records as provided by law; and
3. All information filed by the department with the National Association of Insurance Commissioners, which that association makes available;

(b) The following records shall be closed:

1. All information received in confidence ***by or*** from the National Association of Insurance Commissioners, including, but not limited to, information from the insurance regulatory information system. ~~[However,]~~Records described in this paragraph ***shall be confidential by law and privileged but may be used, received, and shared in accordance with Section 45 of this Act***~~[may be used by the commissioner in enforcement prosecutions and proceedings for disciplinary action, and may be disclosed to other law enforcement authorities]~~; and

2. Other records as provided by law; and

(c) When inspection of department records is denied, any person challenging the denial shall follow the procedures set forth in the Kentucky Open Records Act, KRS 61.872 to 61.884.

(4) After five (5) years, the commissioner may destroy unneeded or obsolete records and filings in the department.

(5) The department shall not charge a fee inconsistent with fees charged by other state agencies for copies of records requested by the public pursuant to this section.

SECTION 47. A NEW SECTION OF SUBTITLE 2 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in KRS 304.2-260 and 304.2-270, documents, materials, or other information, including working papers, in the possession or control of the commissioner that are created, produced, or obtained by or disclosed to the commissioner or any other person in the course of an examination made under KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, or 304.2-300, or in the course of analysis by the commissioner of the financial condition or market conduct of an insurer, shall be confidential by law and privileged but may be used, received, and shared in accordance with Section 45 of this Act.

(2) Documents, materials, or other information, including working papers, in the possession or control of the National Association of Insurance Commissioners shall be confidential by law and privileged, shall not be subject to subpoena, and shall not be subject to discovery or admissible in evidence in any private civil action if they are:

(a) Created, produced, or obtained by or disclosed to the National Association of Insurance Commissioners in the course of the National Association of Insurance Commissioners assisting an examination made under KRS 304.2-210, 304.2-220, 304.2-230, 304.2-240, 304.2-250, 304.2-260, 304.2-270, 304.2-280, 304.2-290, or 304.2-300, or assisting a commissioner in the analysis of the financial condition, or market conduct of an insurer; or

(b) Disclosed to the National Association of Insurance Commissioners under Section 45 of this Act.

Section 48. KRS 304.6-171 is amended to read as follows:

(1) This section shall become operative at the end of the first full calendar year following the year of enactment.

(2) Every life insurance company doing business in this state shall annually submit the opinion of a qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by administrative regulation are computed appropriately, are based on assumptions which satisfy contractual provisions, are consistent with prior reported amounts, and comply with applicable laws of this state. The commissioner by administrative regulation shall define the specifics of this opinion and add any other items deemed to be necessary to its scope.

(3) (a) Every life insurance company, except as exempted by or pursuant to administrative regulation, shall also annually include in the opinion required by subsection (2) of this section, an opinion of the same qualified actuary as to whether the reserves and related actuarial items held in support of the policies and contracts specified by the commissioner by administrative regulation, when considered in light of the assets held by the company with respect to the reserves and related actuarial items, including but not limited to the investment earnings on the assets and the considerations anticipated to be received and retained under the polices and contracts, make adequate provision for the company's obligations under the policies and contracts, including but not limited to the benefits under and expenses associated with the policies and contracts.

(b) The commissioner may provide by administrative regulation for a transition period for establishing any higher reserves which the qualified actuary may deem necessary in order to render the opinion required by this section.

(4) Each opinion required by subsection (2) of this section shall be governed by the following provisions:

(a) A memorandum, in form and substance acceptable to the commissioner as specified by administrative regulation, shall be prepared to support each actuarial opinion.

(b) If the insurance company fails to provide a supporting memorandum at the request of the commissioner within a period specified by administrative regulation or the commissioner determines that the supporting memorandum provided by the insurance company fails to meet the standards prescribed by the administrative regulations or is otherwise unacceptable to the commissioner, the commissioner may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion and prepare the supporting memorandum as is required by the commissioner.

(5) Every opinion shall be governed by the following provisions:

(a) The opinion shall be submitted with the annual statement reflecting the valuation of reserve liabilities for each year ending on or after December 31, 1996.

(b) The opinion shall apply to business in force including individual and group health insurance plans, in form and substance acceptable to the commissioner as specified by administrative regulation.

(c) The opinion shall be based on standards adopted from time to time by the Actuarial Standards Board and on such additional standards as the commissioner may by administrative regulation prescribe.

(d) In the case of an opinion required to be submitted by a foreign or alien company, the commissioner may accept the opinion filed by that company with the insurance supervisory official of another state if the commissioner determines that the opinion reasonably meets the requirements applicable to a company domiciled in this state.

(e) For the purposes of this section, "qualified actuary" means a member in good standing of the American Academy of Actuaries who meets the requirements set forth in administrative regulations.

(f) Except in cases of fraud or willful misconduct, the qualified actuary shall not be liable for damages to any person, other than the insurance company and the commissioner, for any act, error, omission, decision, or conduct with respect to the actuary's opinion.

(g) Disciplinary action by the commissioner against the company or the qualified actuary shall be defined in administrative regulations by the commissioner.

(h) ***Except as provided in paragraphs (i), (j), and (k) of this subsection, materials or other information in the possession or control of the commissioner that are a memorandum in support of the opinion, and any other material provided by the insurer to the commissioner in connection with the memorandum, shall be confidential by law and privileged but may be used, received, and shared in accordance with Section 45 of this Act.***

(i) Any memorandum in support of the opinion, and any other material provided by the company to the commissioner in connection therewith, ***may***[~~shall be kept confidential by the commissioner and shall not be made public and shall not~~] be subject to subpoena[~~, other than~~] for the purpose of defending an action seeking damages from ***the actuary submitting the memorandum***[~~any person~~] by reason of any action required by this section or by administrative regulations promulgated hereunder.

(j) The memorandum or other material may otherwise be released by the commissioner with the written consent of the company or to the American Academy of Actuaries upon request stating that the memorandum or other material is required for the purpose of professional disciplinary proceedings and setting forth procedures satisfactory to the commissioner for preserving the confidentiality of the memorandum or other material.

(k) Once any portion of the confidential memorandum is cited by the company in its marketing, or is cited before any governmental agency other than a state insurance department, or is released by the company to the news media, all portions of the confidential memorandum shall be no longer confidential.

Section 49. KRS 304.24-415 is amended to read as follows:

(1) (a) Every insurer domiciled in this state shall file a report with the commissioner disclosing material acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements unless the acquisitions and dispositions of assets or material nonrenewals, cancellations, or revisions of ceded reinsurance agreements have been submitted to the commissioner for review, approval, or information purposes pursuant to other provisions of this chapter.

(b) The report required in paragraph (a) of this subsection is due within fifteen (15) days after the end of the calendar month in which any of the foregoing transactions occur.

(c) One (1) complete copy of the report, including any exhibits or other attachments, shall be filed with:

1. The insurance department of the insurer's state of domicile; and
2. The National Association of Insurance Commissioners.

(d) All reports ***in the possession or control of the commissioner*** obtained by or disclosed to the commissioner pursuant to this section shall be[~~ given~~] confidential ***by law and privileged but may be used, received, and shared in accordance with Section 45 of this Act. However, the reports may***[~~treatment and shall not be subject to subpoena and shall not~~] be made public by the commissioner ***with either***[~~, the National Association of Insurance Commissioners, or any other person, except to insurance departments of other states, without~~] the prior written consent of the insurer to which it pertains ***or a finding by***[~~unless~~] the commissioner, after giving the insurer who would be affected notice and opportunity to be heard,[~~ determines~~] that the interest of policyholders, shareholders, or the public will be served by publication, in which event the commissioner may publish all or any part ***of the reports*** in the manner the commissioner may deem appropriate.

(2) (a) No acquisitions or dispositions of assets need be reported pursuant to subsection (1) of this section if the acquisitions or dispositions are not material. For purposes of this section, a material acquisition, or the aggregate of

any series of related acquisitions during any thirty (30) day period, is one that is nonrecurring and not in the ordinary course of business and involves more than five percent (5%) of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.

(b) 1. Asset acquisitions subject to this section include every purchase, lease exchange, merger, consolidation, succession, or other acquisition other than the construction or development of real property by or for the reporting insurer or the acquisition of materials for such purpose.

2. Asset dispositions subject to this section include every sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment (whether for the benefit of creditors or otherwise), abandonment, destruction, or other disposition.

(c) 1. The following information is required to be disclosed in any report of a material acquisition or disposition of assets:

a. Date of the transaction;
b. Manner of acquisition or disposition;
c. Description of the assets involved;
d. Nature and amount of the consideration given or received;
e. Purpose of, or reason for, the transaction;
f. Manner by which the amount of consideration was determined;
g. Gain or loss recognized or realized as a result of the transaction; and
h. Names of the persons from which the assets were acquired or to whom they were disposed.

2. Insurers are required to report material acquisitions and dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars ($1,000,000) total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

(3) (a) No nonrenewals, cancellations, or revisions of ceded reinsurance agreements need be reported pursuant to subsection (1) of this section if the nonrenewals, cancellations or revisions are not material. For purposes of this section, a material nonrenewal, cancellation, or revision is one that affects:

1. As respects property and casualty business, including accident and health business written by a property and casualty insurer:

a. More than fifty percent (50%) of the insurer's total ceded written premium; or
b. More than fifty percent (50%) of the insurer's total ceded indemnity and loss adjustment reserves.

2. As respects life, annuity, and accident and health business, more than fifty percent (50%) of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.

3. As respects either property and casualty or life, annuity, and accident and health business, either of the following events shall constitute a material revision which must be reported:

a. An authorized reinsurer representing more than ten percent (10%) of a total cession is replaced by one (1) or more unauthorized reinsurers; or
b. Previously established collateral requirements have been reduced or waived as respects one (1) or more unauthorized reinsurers representing collectively more than ten percent (10%) of a total cession.

(b) No filing shall be required if:

1. As respects property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than ten percent (10%) of its total written premium for direct and assumed business; or

2. As respects life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than ten percent (10%) of the statutory reserve requirements prior to any cession.

(c) The following information is required to be disclosed in any report of a material nonrenewal, cancellation, or revision of ceded reinsurance agreements:

1. Effective date of the nonrenewal, cancellation, or revision;
2. The description of the transaction with an identification of the initiator thereof;
3. Purpose of, or reason for, the transaction; and
4. If applicable, the identity of the replacement reinsurers.

(d) Insurers are required to report all material nonrenewals, cancellations, or revisions of ceded reinsurance agreements on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which utilizes a pooling arrangement or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer ceded substantially all of its direct and assumed business to a pool if the insurer has less than one million dollars ($1,000,000) total direct plus assumed written premiums during a calendar year that are not subject to a pooling arrangement and the net income of the business not subject to the pooling arrangement represents less than five percent (5%) of the insurer's capital and surplus.

Section 50. KRS 304.37-050 is amended to read as follows:

(1) Documents, materials, or other information in the possession or control of the commissioner that are[~~All information, documents, and copies thereof~~] obtained by or disclosed to the commissioner ***or***[~~by~~] any other person in the course of an examination or investigation made pursuant to KRS 304.37-040 and all information reported pursuant to KRS 304.37-020, shall be[~~ given~~] confidential ***by law and privileged but may be used, received, and shared in accordance with Section 45 of this Act. However, the documents, materials, or other information may***[~~treatment and shall not be subject to subpoena and shall not~~] be made public by the commissioner ***with either***[~~or any other person, except to insurance departments of other states, without~~] the prior written consent of the insurer to which it pertains ***or a finding by***[~~unless~~] the commissioner, after giving the insurer and its affiliates who would be affected thereby notice and opportunity to be heard,[~~ determines~~] that the interests of policyholders, shareholders, or the public will be served by the publication thereof, in which event ***the commissioner***[~~he~~] may publish all or any part thereof in ***any***[~~such~~] manner as ***the commissioner***[~~he~~] may deem appropriate.

Section 51. KRS 304.9-430 is amended to read as follows:

(1) No person shall in this state act as or hold himself out to be an adjuster unless then licensed by the Kentucky Department of Insurance as an adjuster. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him. The commissioner shall issue the license as to persons qualified therefor upon payment of the license application fee stated in KRS 304.4-010 except that salaried employees of domestic insurers who are required to be licensed as adjusters shall not be required to pay the license fee.

(2) To be licensed as an adjuster the applicant must be qualified therefor as follows:

(a) Must, if an individual be twenty-one (21) years or more of age.

(b) Must be a resident of Kentucky, or resident of another state ***or country*** which will permit residents of Kentucky to act as adjusters in ***the***[~~such~~] other state ***or country***.

(c) Must be a full-time salaried employee of an insurer, a full time salaried employee of a licensed adjuster or a graduate of a recognized law school, or must have had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make ***the applicant***[~~him~~] reasonably competent to fulfill the responsibilities of an adjuster.

(d) Must be trustworthy and of good reputation.

(e) Must have and maintain an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of ***the***[~~such~~] office in the office of an insurer, of the employer, or in the home of the licensee.

(f) Must have successfully passed a written examination prescribed by the commissioner, except if the applicant has successfully passed a written examination in a state ***or country*** which permits residents of Kentucky to act as adjusters in ***the***[~~such~~] other state ***or country***.

(3) A firm or corporation, whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is named in the license or registered with the commissioner under the license, and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one (1), so named in the license or so registered to exercise its powers.

(4) Except, that no[~~ such~~] adjuster's license or qualifications shall be required as to any adjuster who is sent into this state on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all ***of these***[~~such~~] losses.

Section 52. KRS 304.24-040 is amended to read as follows:

(1) This section applies to stock, combined stock and mutual life, or mutual insurers hereafter incorporated in this state. ***The***[~~Such an~~] insurer may be formed for the purpose of transacting any kind or kinds of insurance, as well as annuity business.

(2) Incorporators. Three (3) or more individuals, none of whom is less than eighteen (18) years of age, may incorporate a stock insurer; ten (10) or more individuals may incorporate a mutual insurer.[~~ At least a majority of the incorporators must be citizens of the United States. At least a majority of the incorporators must be residents of Kentucky.~~]

(3) Articles. The incorporators shall deposit the articles of incorporation, in quadruplicate originals, with the commissioner, and the articles shall not be filed with the Secretary of State until approved by the commissioner as provided in KRS 304.24-050, and the commissioner's approval has been stamped upon or otherwise attached to the articles. In addition to the applicable requirements of laws in this state governing the incorporation of business corporations generally:

(a) The name of the corporation, which shall be subject to KRS 304.3-100, shall contain the words "insurance company;" if a mutual, or a combined stock and mutual, the word "mutual" must be a part of the name.

(b) The articles of incorporation shall specify the kind or kinds of insurance proposed to be transacted.

(c) Each share of capital stock shall have a par value of not less than $1.00.

(d) If a mutual, or a combined stock and mutual life, the articles of incorporation shall state the maximum contingent liability of its participating policyholder members, other than as to nonassessable policies, for payment of losses and expenses incurred. ***The***[~~Such~~] liability shall be as stated in the articles of incorporation, but shall not be less than one (1) or more than six (6) times the premium for member's policy at the annual premium rate for a term of one (1) year.

(e) The names and residence addresses of the incorporators.

(4) Unless otherwise provided in the articles of incorporation or an amendment thereto, each stockholder of a combined stock and mutual life insurance company shall, at all meetings, be entitled to one (1) vote for each share of common stock held by him, and each holder of a policy entitled to participate in profits or savings shall be a member and[~~, as such,~~] shall be entitled to vote on the same basis to which he would be entitled in a mutual company under KRS 304.24-210.

Section 53. KRS 304.27-060 is amended to read as follows:

(1) Twenty-five (25) or more persons[~~ domiciled in this state~~] may organize a domestic reciprocal insurer and make application to the commissioner for a certificate of authority to transact insurance.

(2) The proposed attorney shall fulfill the requirements of and shall execute and file with the commissioner when applying for a certificate of authority, a declaration setting forth:

(a) The name of the insurer;

(b) The location of the insurer's principal office, which shall be the same as that of the attorney and shall be maintained within this state;

(c) The kinds of insurance proposed to be transacted;

(d) The names and addresses of the original subscribers;

(e) The designation and appointment of the proposed attorney and a copy of the power of attorney;

(f) The names and addresses of the officers and directors of the attorney, if a corporation, or its members, if a firm;

(g) The powers of the subscribers' advisory committee; and the names and terms of office of the members thereof;

(h) A copy of the subscribers' agreement;

(i) That all moneys paid to the reciprocal insurer shall, after deducting therefrom any sum payable to the attorney, be held in the name of the insurer and for the purposes specified in the subscribers' agreement;

(j) A statement that each of the original subscribers has in good faith applied for insurance of a kind proposed to be transacted, and that the insurer has received from each such subscriber the full premium or premium deposit required for the policy applied for, for a term of not less than six (6) months at an adequate rate theretofore filed with the commissioner;

(k) A statement of the financial condition of the insurer, a schedule of its assets, and a statement that the surplus as required by KRS 304.3-120 is on hand; and

(l) A copy of each policy, indorsement and application form it then proposes to issue or use.

(3) The declaration shall be acknowledged by the attorney in the manner required for the acknowledgment of deeds.

Section 54. KRS 304.29-101 is amended to read as follows:

A domestic society organized on or after January 1, 1989, shall be formed as follows:

(1) Seven (7) or more ***individuals***[~~citizens of the United States, a majority of whom are citizens of this state,~~] who desire to form a fraternal benefit society, may make, sign and acknowledge before some officer competent to take acknowledgment of deeds, articles of incorporation, in which shall be stated:

(a) The proposed corporate name of the society, which shall not so closely resemble the name of any society or insurance company as to be misleading or confusing;

(b) The purposes for which it is being formed and the mode in which its corporate powers are to be exercised. The purposes shall not include more liberal powers than are granted by this subtitle; and

(c) The names and residences of the incorporators and the names, residences and official titles of all the officers, trustees, directors, or other persons who are to have and exercise the general control of the management of the affairs and funds of the society for the first year or until the ensuing election at which all [~~such~~]officers shall be elected by the supreme governing body, which election shall be held not later than one (1) year from the date of issuance of the permanent certificate of authority.

(2) The articles of incorporation, duly certified copies of the society's bylaws and rules, copies of all proposed forms of certificates, applications therefor, and circulars to be issued by the society and a bond conditioned upon the return to applicants of the advanced payments if the organization is not completed within one (1) year shall be filed with the commissioner, who may require further information. The bond with sureties approved by the commissioner shall be in an amount, not less than three hundred thousand dollars ($300,000) nor more than one million five hundred thousand dollars ($1,500,000), as required by the commissioner. All documents filed shall be in the English language. If the purposes of the society conform to the requirements of this subtitle and all provisions of the law have been complied with, the commissioner shall so certify, retain and file the articles of incorporation and furnish the incorporators a preliminary certificate of authority authorizing the society to solicit members.

(3) No preliminary certificate of authority granted under the provisions of this section shall be valid after one (1) year from its date or after such further period, not exceeding one (1) year, as may be authorized by the commissioner upon cause shown, unless the five hundred (500) applicants hereinafter required have been secured and the organization has been completed as herein provided. The articles of incorporation and all other proceedings thereunder shall become null and void in one (1) year from the date of the preliminary certificate of authority, or at the expiration of the extended period, unless the society shall have completed its organization and received a certificate of authority to do business.

(4) Upon receipt of a preliminary certificate of authority from the commissioner, the society may solicit members for the purpose of completing its organization, shall collect from each applicant the amount of not less than one (1) regular monthly premium in accordance with its table of rates, and shall issue to each applicant a receipt for the amount so collected. No society shall incur any liability other than for the return of advance premium, nor issue any certificate, nor pay, allow, or offer or promise to pay or allow, any benefit to any person until:

(a) Actual bona fide applications for benefits have been secured on not less than five hundred (500) applicants, and any necessary evidence of insurability has been furnished to and approved by the society;

(b) At least ten (10) subordinate lodges have been established into which the five hundred (500) applicants have been admitted;

(c) There has been submitted to the commissioner, under oath of the president or secretary, or corresponding officer of the society, a list of the applicants, giving their names, addresses, date each was admitted, name and number of the subordinate lodge of which each applicant is a member, amount of benefits to be granted and premiums therefor; and

(d) It shall have been shown to the commissioner, by sworn statement of the treasurer, or corresponding officer of the society, that at least five hundred (500) applicants have each paid in cash at least one (1) regular monthly premium, which premiums in the aggregate shall amount to at least one hundred fifty thousand dollars ($150,000). The advance premiums shall be held in trust during the period of organization; and if the society has not qualified for a certificate of authority within one (1) year, the premiums shall be returned to the applicants.

(5) The commissioner may make examination and require further information as he deems advisable. Upon presentation of satisfactory evidence that the society has complied with all the provisions of law, the commissioner shall issue to the society a certificate of authority to that effect and that the society is authorized to transact business pursuant to the provisions of KRS Chapter 304. The certificate of authority shall be prima facie evidence of the existence of the society at the date of the certificate. The commissioner shall cause a record of the certificate of authority to be made. A certified copy of the record may be given in evidence with like effect as the original certificate of authority.

(6) Any incorporated society authorized to transact business in this state at the time this subtitle becomes effective shall not be required to reincorporate.

(7) No unincorporated or voluntary association shall be permitted to transact business in this state as a fraternal benefit society.

Section 55. KRS 18A.229 is amended to read as follows:

(1) State employees as defined in KRS 18A.228 participating in the health insurance fund authorized in KRS 42.805 shall be given at least three (3) alternative plans from which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.

(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits ***that include but are not limited to basic inpatient hospital services and emergency medical services for participating employers, employees, their respective spouses, and dependent children. Coverage shall not supplement***

any other public or private health care benefits. Basic inpatient hospital services shall include at least fourteen (14) days room and board and at least fifty percent (50%) of the related charges for physician's services[~~described in KRS 304.18-025(2)(c) and (d)~~].

Section 56. KRS 136.410 is amended to read as follows:

[~~(1)~~]Every bail bondsman doing business in this Commonwealth shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement of all amounts paid to him or his representatives, as premiums for bail bonds written in the courts of this Commonwealth during the preceding calendar year, or since the last returns were made, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the bail bondsman or his representatives. Amounts received for reimbursement for expenses or court costs are not to be considered as premiums for the purposes of this section.

[~~(2) In addition to the requirements of subsection (1) of this section, a copy of the statement of all amounts paid to the bail bondsman or his representatives, whether designated as premiums or otherwise, shall be filed with the commissioner of insurance at the same time the bail bondsman files his report of assets and liabilities as required by KRS 304.34-050(1).~~]

Section 57. KRS 304.99-151 is amended to read as follows:

(1) Any person who violates a cease and desist order of the commissioner under KRS 304.37-130(5) may, after notice and hearing and upon order of the commissioner, be subject at the discretion of the commissioner to a civil penalty of not more than ten thousand dollars ($10,000) for every day of violation, suspension, or revocation of the person's license or certificate of authority, or both.

(2) Any insurer or other person who fails to make any filing required by KRS[~~ 304.24-410 or~~] 304.37-120 and who also fails to demonstrate a good faith effort to comply with any filing requirement shall be subject to a civil penalty of not more than ten thousand dollars ($10,000).

Section 58. KRS 431.510 is amended to read as follows:

(1) It shall be unlawful for any person to engage in the business of bail bondsman[~~ as defined in KRS 304.34-010(1)~~], or to otherwise for compensation or other consideration:

(a) Furnish bail or funds or property to serve as bail; or

(b) Make bonds or enter into undertakings as surety;

for the appearance of persons charged with any criminal offense or violation of law or ordinance punishable by fine, imprisonment or death, before any of the courts of this state, including city courts, or to secure the payment of fines imposed and of costs assessed by such courts upon a final disposition.

(2) Nothing contained herein shall serve to release any bail bondsman heretofore licensed by this state from the obligation of undischarged bail bond liability existing on June 19, 1976.

(3)[~~ Within thirty (30) days from June 19, 1976, every bail bondsman heretofore licensed under Chapter 304, Subtitle 34, shall furnish to the commissioner of the Department of Insurance a certified copy of his daily bond register required by KRS 304.34-070, and the commissioner shall retain the securities of each bail bondsman deposited with the custodian of insurance securities until all undertakings shall have been paid and satisfied in full.~~

~~(4)~~] KRS 431.510 to 431.550 shall not be construed to limit or repeal KRS 431.021 or to prevent licensed insurers providing security required by Subtitle 39 of KRS Chapter 304 and nonprofit associations from posting or causing to be posted by licensed insurers security or acting as surety for their insureds or members for an offense arising from the operation of a motor vehicle, provided that such posting of security or acting as surety is merely incidental to the terms and conditions of an insurance contract or a membership agreement and provided further that no separate premium or charge therefor is required from the insureds or members.

Section 59. The following KRS sections are repealed:

147A.130 Fee to cover administrative costs of health care trusts -- Referral fees prohibited.
304.8-060 Custodian of insurance securities.
304.8-070 Custodian's duties, bond.
304.9-220 Multiple licensing, life agents.
304.18-025 Health care trust.
304.24-410 Acquisition of insurer's securities -- Approval by commissioner -- Presumption of control.
304.32-190 Agents: appointment.
304.32-200 Revocation of agent's license.
304.32-220 Examination expense.
304.32-230 Hearings -- Appeal.
304.34-010 Definitions for KRS 304.34-020 to 304.34-140.

304.34-020 Commissioner's power to regulate and enforce -- Application for license.
304.34-030 Bail bondsman's license required.
304.34-040 Security required of bondsmen.
304.34-042 Return of securities deposited by bail bondsman.
304.34-045 Filing of rate schedules required -- Premiums not to exceed approved rates.
304.34-050 Actions required of licensed bondsmen.
304.34-060 Affidavit as to consideration for bail bond.
304.34-070 Records required of bondsmen.
304.34-075 Semiannual reports by bondsmen -- Contents.
304.34-080 Actions prohibited to bondsmen -- Persons prohibited from being bondsmen.
304.34-090 Causes for failure to renew, suspension, or revocation of license.
304.34-100 Procedure on failure to renew, suspension, or revocation of license.
304.34-110 Provisions as to suspension or revocation.
304.34-120 Action on bondsman's license involves other insurance licenses.
304.34-130 Administrative penalties.
304.34-140 Permissible city ordinances.
304.34-160 Commissioner to notify clerks of licensed bondsmen's names, suspensions, revocations, reinstatements -- Clerk's reports.
304.39-330 Mandatory rate reduction.
304.99-030 Penalties for violation of bail bondsman licensing law.

The Committee Amendment No. 1 to **HB 551** is as follows:

On page 11, line 2, after "such other state" by inserting "***, country,***"; and
On page 16, line 10, by deleting "***health insurance***"; and
On page 20, line 13, by deleting "***304.2-370***" and inserting "***304.2-270***"; and
On page 21, line 7, by deleting "***304.2-370***" and inserting "***304.2-270***"; and
On page 21, line 24, by deleting "***304.2-370***" and inserting "***304.2-270***"; and
On page 22, line 14, by deleting "***304.2-370***" and inserting "***304.2-270***"; and
On page 23, line 11, by deleting "***304.2-370***" and inserting "***304.2-270***".

HB 608, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.17A-005 is amended to read as follows:

As used in this subtitle, unless the context requires otherwise:

(1) "Association" means an entity, other than an employer-organized association, that has been organized and is maintained in good faith for purposes other than that of obtaining insurance for its members and that has a constitution and bylaws;

(2) ***"At the time of enrollment" means:***

(a) At the time of application for an individual, an association that actively markets to individual members, and an employer-organized association that actively markets to individual members; and

(b) During the time of open enrollment or during an insured's initial or special enrollment periods for group health insurance.

(3) "Base premium rate" means, for each class of business as to a rating period, the lowest premium rate charged or that could have been charged under the rating system for that class of business by the insurer to the individual or small group, or employer as defined in KRS 304.17A-0954, with similar case characteristics for health benefit plans with the same or similar coverage;

(4)[~~(3)~~]"Bona fide association" means an entity as defined in 42 U.S.C. sec. 300gg-91(d)(3);

(5)[~~(4)~~]"Church plan" means a church plan as defined in 29 U.S.C. sec. 1002(33);

(6)[~~(5)~~]"COBRA" means any of the following:

(a) 26 U.S.C. sec. 4980B other than subsection (f)(1) as it relates to pediatric vaccines;

(b) The Employee Retirement Income Security Act of 1974 (29 U.S.C. sec. 1161 et seq. other than sec. 1169); or

(c) 42 U.S.C. sec. 300bb;

(7)~~[(6)]~~(a) "Creditable coverage" means, with respect to an individual, coverage of the individual under any of the following:

1. A group health plan;
2. Health insurance coverage;
3. Part A or Part B of Title XVIII of the Social Security Act;
4. Title XIX of the Social Security Act, other than coverage consisting solely of benefits under section 1928;
5. Chapter 55 of Title 10, United States Code;
6. A medical care program of the Indian Health Service or of a tribal organization;
7. A state health benefits risk pool;
8. A health plan offered under Chapter 89 of Title 5, United States Code;
9. A public health plan, as defined in regulations; or
10. A health benefit plan under section 5(e) of the Peace Corps Act (22 U.S.C. sec. 2504(e)).

(b) This term does not include coverage consisting solely of coverage of excepted benefits as defined in subsection (10) of this section;

(8)~~[(7)]~~"Eligible individual" means an individual:

(a) For whom, as of the date on which the individual seeks coverage, the aggregate of the periods of creditable coverage is eighteen (18) or more months and whose most recent prior creditable coverage was under a group health plan, governmental plan, or church plan. A period of creditable coverage under this paragraph shall not be counted if, after that period, there was a sixty-three (63) day period of time, excluding any waiting or affiliation period, during all of which the individual was not covered under any creditable coverage;

(b) Who is not eligible for coverage under a group health plan, Part A or Part B of Title XVIII of the Social Security Act (42 U.S.C. secs. 1395j et seq.), or a state plan under Title XIX of the Social Security Act (42 U.S.C. secs. 1396 et seq.) and does not have other health insurance coverage;

(c) With respect to whom the most recent coverage within the coverage period described in paragraph (a) of this subsection was not terminated based on a factor described in KRS 304.17A-240(2)(a), (b), and (c);

(d) If the individual had been offered the option of continuation coverage under a COBRA continuation provision or under KRS 304.18-110, who elected the coverage; and

(e) Who, if the individual elected the continuation coverage, has exhausted the continuation coverage under the provision or program;

(9)~~[(8)]~~"Employer-organized association" means any of the following:

(a) Any entity that was qualified by the commissioner as an eligible association prior to April 10, 1998, and that has actively marketed a health insurance program to its members since September 8, 1996, and which is not insurer-controlled;

(b) Any entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and that is not insurer-controlled; or

(c) Any entity that is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee, the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation.

Except as provided in KRS 304.17A-200, 304.17A.210, and 304.17A-220, no employer-organized association shall be treated as an association, small group, or large group under this subtitle;

(10)~~[(9)]~~ "Employer-organized association health insurance plan" means any health insurance plan, policy, or contract issued to an employer-organized association, or to a trust established by one (1) or more employer-organized associations, or providing coverage solely for the employees, retired employees, directors and their spouses and dependents of the members of one (1) or more employer-organized associations;

(11)~~[(10)]~~ "Excepted benefits" means benefits under one (1) or more, or any combination thereof, of the following:

(a) Coverage only for accident, or disability income insurance, or any combination thereof;

(b) Coverage issued as a supplement to liability insurance;

(c) Liability insurance, including general liability insurance and automobile liability insurance;

(d) Workers' compensation or similar insurance;

(e) Automobile medical payment insurance;

(f) Credit-only insurance;

(g) Coverage for on-site medical clinics;

(h) Other similar insurance coverage, specified in administrative regulations, under which benefits for medical care are secondary or incidental to other insurance benefits;

(i) Limited scope dental or vision benefits;

(j) Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof;

(k) Such other similar, limited benefits as are specified in administrative regulations;

(l) Coverage only for a specified disease or illness;

(m) Hospital indemnity or other fixed indemnity insurance;

(n) Benefits offered as Medicare supplemental health insurance, as defined under section 1882(g)(1) of the Social Security Act;

(o) Coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code; and

(p) Coverage similar to that in paragraphs (n) and (o) of this subsection that is supplemental to coverage under a group health plan;

(12)[~~(11)~~] "Governmental plan" means a governmental plan as defined in 29 U.S.C. sec. 1002(32);

(13)[~~(12)~~] "Guaranteed acceptance program participating insurer" means an insurer that is required to or has agreed to offer health benefit plans in the individual market to guaranteed acceptance program qualified individuals;

(14)[~~(13)~~] "Guaranteed acceptance program plan" means a health benefit plan in the individual market issued by an insurer that provides health benefits to a guaranteed acceptance program qualified individual and is eligible for assessment and refunds under the guaranteed acceptance program;

(15)[~~(14)~~] "Guaranteed acceptance program" means the Kentucky Guaranteed Acceptance Program established and operated under KRS 304.17A-400 to 304.17A-480;

(16)[~~(15)~~] "Guaranteed acceptance program qualified individual" means an individual who:

(a) Is not an eligible individual;

(b) Is not eligible for or covered by other health benefit plan coverage;

(c) Within the previous three (3) years has been diagnosed with or treated for a high-cost condition or has had benefits paid under a health benefit plan for a high-cost condition, or is a high risk individual as defined by the underwriting criteria applied by an insurer under the alternative underwriting mechanism established in KRS 304.17A-430(3);

(d) Has been a resident of Kentucky for at least twelve (12) months immediately preceding the effective date of the policy; and

(e) Has not had his or her most recent coverage under any health benefit plan terminated or nonrenewed because of any of the following:

1. The individual failed to pay premiums or contributions in accordance with the terms of the plan or the insurer had not received timely premium payments;
2. The individual performed an act or practice that constitutes fraud or made an intentional misrepresentation of material fact under the terms of the coverage; or
3. The individual engaged in intentional and abusive noncompliance with health benefit plan provisions;

(17)[~~(16)~~] "Guaranteed acceptance plan supporting insurer" means either an insurer that is not a guaranteed acceptance plan participating insurer or is a stop loss carrier, provided that a guaranteed acceptance plan supporting insurer shall not include an employer-sponsored self-insured health benefit plan exempted by ERISA;

(18)[~~(17)~~] "Health benefit plan" means any hospital or medical expense policy or certificate; nonprofit hospital, medical-surgical, and health service corporation contract or certificate; provider sponsored integrated health delivery network; a self-insured plan or a plan provided by a multiple employer welfare arrangement, to the extent permitted by ERISA; health maintenance organization contract; or any health benefit plan that affects the rights of a Kentucky insured and bears a reasonable relation to Kentucky, whether delivered or issued for delivery in Kentucky, and does not include policies covering only accident, credit, dental, disability income, fixed indemnity medical expense reimbursement policy, long-term care, Medicare supplement, specified disease, vision care, coverage issued as a supplement to liability insurance, insurance arising out of a workers' compensation or similar law, automobile medical-payment insurance, insurance under which benefits are payable with or without regard to fault and that is statutorily required to be contained in any liability

insurance policy or equivalent self-insurance, short-term coverage, student health insurance offered by a Kentucky-licensed insurer under written contract with a university or college whose students it proposes to insure, medical expense reimbursement policies specifically designed to fill gaps in primary coverage, coinsurance, or deductibles and provided under a separate policy, certificate, or contract, or coverage supplemental to the coverage provided under Chapter 55 of Title 10, United States Code;

(19)[~~(18)~~] "Health care provider" or "provider" means any facility or service required to be licensed pursuant to KRS Chapter 216B, pharmacist as defined pursuant to KRS Chapter 315, and any of the following independent practicing practitioners:

(a) Physicians, osteopaths, and podiatrists licensed under KRS Chapter 311;

(b) Chiropractors licensed under KRS Chapter 312;

(c) Dentists licensed under KRS Chapter 313;

(d) Optometrists licensed under KRS Chapter 320;

(e) Physician assistants regulated under KRS Chapter 311;

(f) Nurse practitioners licensed under KRS Chapter 314; and

(g) Other health care practitioners as determined by the department by administrative regulations promulgated under KRS Chapter 13A;

(20)[~~(19)~~] (a) "High-cost condition" means a covered condition in an individual policy as listed in paragraph (c) of this subsection or as added by the commissioner in accordance with KRS 304.17A-280, but only to the extent that the condition exceeds the numerical score or rating established pursuant to uniform underwriting standards prescribed by the commissioner under paragraph (b) of this subsection that account for the severity of the condition and the cost associated with treating that condition.

(b) The commissioner by administrative regulation shall establish uniform underwriting standards and a score or rating above which a condition is considered to be high-cost by using:

1. Codes in the most recent version of the "International Classification of Diseases" that correspond to the medical conditions in paragraph (c) of this subsection and the costs for administering treatment for the conditions represented by those codes; and

2. The most recent version of the questionnaire incorporated in a national underwriting guide generally accepted in the insurance industry as designated by the commissioner, the scoring scale for which shall be established by the commissioner.

(c) The diagnosed medical conditions are: acquired immune deficiency syndrome (AIDS), angina pectoris, ascites, chemical dependency cirrhosis of the liver, coronary insufficiency, coronary occlusion, cystic fibrosis, Friedreich's ataxia, hemophilia, Hodgkin's disease, Huntington chorea, juvenile diabetes, leukemia, metastatic cancer, motor or sensory aphasia, multiple sclerosis, muscular dystrophy, myasthenia gravis, myotonia, open heart surgery, Parkinson's disease, polycystic kidney, psychotic disorders, quadriplegia, stroke, syringomyelia, and Wilson's disease;

(21)[~~(20)~~] "Index rate" means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding highest premium rate;

(22)[~~(21)~~] "Individual market" means the market for the health insurance coverage offered to individuals other than in connection with a group health plan;

(23)[~~(22)~~] "Insurer" means any insurance company; health maintenance organization; self-insurer or multiple employer welfare arrangement not exempt from state regulation by ERISA; provider-sponsored integrated health delivery network; self-insured employer-organized association, or nonprofit hospital, medical-surgical, dental, or health service corporation authorized to transact health insurance business in Kentucky;

(24)[~~(23)~~] "Insurer-controlled" means that the commissioner has found, in an administrative hearing called specifically for that purpose, that an insurer has or had a substantial involvement in the organization or day-to-day operation of the entity for the principal purpose of creating a device, arrangement, or scheme by which the insurer segments employer groups according to their actual or anticipated health status or actual or projected health insurance premiums;

(25)[~~(24)~~] "Large group" means:

(a) An employer with fifty-one (51) or more employees; or

(b) An affiliated group with fifty-one (51) or more eligible members;

(26)[~~(25)~~] "Managed care" means systems or techniques generally used by third-party payors or their agents to affect access to and control payment for health care services and that integrate the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards for furnishing a comprehensive set of health care services and financial incentives for covered persons using the participating providers and procedures provided for in the plan;

(27)[~~(26)~~] "Market segment" means the portion of the market covering one (1) of the following:

(a) Individual;

(b) Small group;

(c) Large group; or

(d) Association;

(28)[~~(27)~~] "Provider network" means an affiliated group of varied health care providers that is established to provide a continuum of health care services to individuals;

(29)[~~(28)~~] "Provider-sponsored integrated health delivery network" means any provider-sponsored integrated health delivery network created and qualified under KRS 304.17A-300 and KRS 304.17A-310;

(30)[~~(29)~~] "Purchaser" means an individual, organization, employer, association, or the Commonwealth that makes health benefit purchasing decisions on behalf of a group of individuals;

(31)[~~(30)~~] "Rating period" means the calendar period for which premium rates are in effect. A rating period shall not be required to be a calendar year;

(32)[~~(31)~~] "Restricted provider network" means a health benefit plan that conditions the payment of benefits, in whole or in part, on the use of the providers that have entered into a contractual arrangement with the insurer to provide health care services to covered individuals;

(33)[~~(32)~~] "Self-insured plan" means a group health insurance plan in which the sponsoring organization assumes the financial risk of paying for covered services provided to its enrollees;

(34)[~~(33)~~] "Small employer" means, in connection with a group health plan with respect to a calendar year and a plan year, an employer who employed an average of at least two (2) but not more than fifty (50) employees on business days during the preceding calendar year and who employs at least two (2) employees on the first day of the plan year;

(35)[~~(34)~~] "Small group" means:

(a) A small employer with two (2) to fifty (50) employees; or

(b) An affiliated group or association with two (2) to fifty (50) eligible members; and

(36)[~~(35)~~] "Standard benefit plan" means the plan identified in KRS 304.17A-250.

Section 2. KRS 304.17A-300 is amended to read as follows:

(1) A provider-sponsored integrated health delivery network may be created by health care providers for the purpose of providing health care services.

(2) No person shall in this Commonwealth be, act as, or hold itself out as a provider-sponsored integrated health delivery network unless it holds a certificate of filing from the commissioner. Each provider-sponsored integrated health delivery network that seeks to offer services shall first be certified by the department.

(3)[~~Notwithstanding subsection (2) of this section, a provider-sponsored integrated health delivery network which holds a certificate of filing from the Kentucky Health Policy Board as of July 15, 1996, shall have one (1) year from July 15, 1996, to comply with the provisions of this subtitle.~~

~~(4)~~] To qualify as a provider-sponsored integrated health delivery network, an applicant shall submit information acceptable to the department to satisfactorily demonstrate that the provider-sponsored integrated health delivery network:

(a) Is licensed and in good standing with the licensure boards for participating providers;

(b) Has demonstrated the capacity to administer the health plans it is offering;

(c) Has the ability, experience, and structure to arrange for the appropriate level and type of health care services;

(d) Has the ability, policies, and procedures to conduct utilization management activities;

(e) Has the ability to achieve, monitor, and evaluate the quality and cost effectiveness of care provided by its provider network;

(f) Is financially solvent;

(g) Has the ability to assure enrollees adequate access to providers, including geographic availability and adequate numbers and types;

(h) Has the ability and procedures to monitor access to its provider network;

(i) Has a satisfactory grievance procedure and the ability to respond to enrollees' inquiries and complaints;

(j) Does not limit the participation of any health care provider in its provider network in another provider network;

(k) Has the ability and policies that allow patients to receive care in the most appropriate, least restrictive setting;

(l) Does not discriminate in enrolling members;

(m) Participates in coordination of benefits;

(n) Uses standardized electronic claims and billing processes and formats; ***and***

(o) Discloses to the cooperative reimbursement arrangements with providers[~~; and~~

~~(p) Assures that all services covered by the provider-sponsored integrated health delivery network are available to all persons enrolled in the plan within fifty (50) miles of each person's place of residence, to the extent those services are available within that area, and assures that all services not available therein shall be offered at sites as proximate to the enrollee as possible~~].

(4)[~~(5)~~]Fees for the following services shall be paid to the commissioner by every provider-sponsored integrated health delivery network, and the fees shall be the same as those for insurers as specified in Subtitle 4 of this chapter:

(a) For filing an application for a certificate of filing or amendment thereto;

(b) For filing an annual statement; and

(c) For other services deemed necessary by the commissioner.

(5)[~~(6)~~]Provider-sponsored integrated health delivery networks shall be subject to the provisions of this subtitle, and to the following provisions of this chapter, to the extent applicable and not in conflict with the expressed provisions of this subtitle:

(a) Subtitle 1 -- Scope of Code;

(b) Subtitle 2 -- Insurance Commissioner;

(c) Subtitle 3 -- Authorization of Insurers and General Requirements;

(d) Subtitle 4 -- Fees and Taxes;

(e) Subtitle 5 -- Kinds of Insurance--Limits of Risk--Reinsurance;

(f) Subtitle 6 -- Assets and Liabilities;

(g) Subtitle 7 -- Investments;

(h) Subtitle 8 -- Administration of Deposits;

(i) ***Subtitle 9 -- Agents, Consultants, Solicitors and Adjuster;***

(j) Subtitle 12 -- Trade Practices and Frauds;

(k)[~~(j)~~] Subtitle 14 -- KRS ***304.14-120 to 304.14-130 and*** 304.14-500 to 304.14-560;

(l)[~~(k)~~] Subtitle 25 -- Continuity of Management;

(m)[~~(l)~~] Subtitle 33 -- Insurers Rehabilitation and Liquidation;

(n)[~~(m)~~] Subtitle 37 -- Insurance Holding Company Systems; and

(o)[~~(n)~~]Subtitle 99 -- Penalties.

Section 3. KRS 304.17A-330 is amended to read as follows:

All insurers authorized to write health insurance in this state and employer-organized associations that self-insure shall transmit at least annually by ***July 31***[~~March 30~~] to the commissioner the following information, in a format prescribed by the commissioner, on their insurance experience in this state for the preceding calendar year:

(1) Total premium by product type and market segment;

(2) Total enrollment by product type and market segment;

(3) Total cost of medical claims filed by product type and market segment;

(4) Total amount of medical claims paid by the insurer ***and insured*** by product type and market segment;

(5) Total policies canceled by type and the aggregate reasons therefor; and

(6) List of total health and medical services paid for, grouped by types of services and costs:

(a) Total cost per health and medical service per insured group[~~ per month~~]:

1. Cost paid by insurer;

2. Cost paid by insured; and

(b) ***Number of insureds***[~~Percentage of insured~~] who received each service.

Section 4. KRS 304.18-120 is amended to read as follows:

(1) A converted policy issued pursuant to the conversion privilege contained in a group policy providing hospital or surgical expense insurance shall ***not impose a lifetime maximum benefit of less than five hundred thousand dollars ($500,000)***[~~provide on an expense incurred basis, the following minimum benefits:~~

~~(a) Hospital room and board benefits of twenty-five dollars ($25) per day, for a minimum duration of seventy (70) days for any one period of hospital confinement as defined in the converted policy;~~

~~(b) Miscellaneous hospital expense benefits for any one (1) period of hospital confinement in a minimum amount up to twenty (20) times the hospital room and board daily benefit provided under the converted policy;~~

~~(c) Surgical operation expense benefits according to a relative value schedule, or a minimum of two hundred fifty dollars ($250); and~~

~~(d) The option to continue any existing benefits on account of pregnancy, childbirth, or miscarriage~~].

(2) ***The commissioner by administrative regulation shall establish minimum benefits for a converted policy issued pursuant to the conversion privilege contained in a group health policy.***~~[The relative values in the surgical schedule shall be consistent with the schedule of operations generally offered by the insurer under group or individual health insurance policies. In the event that the insurer and the group policyholder agree upon one (1) or more additional plans of benefits to be available for converted policies, the applicant for the converted policy may, at his option, elect such a plan in lieu of a converted policy providing the benefits of paragraphs (a), (b) and (c) of subsection (1) of this section. In no event shall the benefits be less than the minimums set forth in subsection (1) of this section.~~

~~(3) In no event need the insurer provide under the converted policy:~~

~~(a) Benefits on account of abortion or complications thereof;~~

~~(b) The benefits of paragraphs (a) and (b) of subsection (1) of this section, unless the group policy from which conversion is made provided hospital expense insurance benefits; or~~

~~(c) The benefits of paragraph (c) of subsection (1) of this section, unless the group policy provided surgical expense insurance benefits. Furthermore, the converted policy may contain any exclusion, reduction, or limitation contained in the group policy and any exclusion, reduction or limitation customarily used in individual policies issued by the insurer. With respect to any person who was covered by the group policy, the period specified in the time limit on certain defenses of the incontestable provision of the converted policy shall commence with the date the insurance on such person or member became effective under the group policy.~~

~~(4) The converted policy may provide:~~

~~(a) That any hospital, surgical, or medical expense benefits otherwise payable thereunder with respect to any person covered thereunder may be reduced by the amount of any such benefits payable under the group policy for the same loss with respect to such person after termination of such person's coverage thereunder. The insurer shall not be entitled to use deterioration of health as the basis for refusing to renew a converted policy;~~

~~(b) For termination of coverage thereunder on any person when he is or could be covered by Medicare (Title XVIII of the United States Social Security Act as added by the Social Security Amendments of 1965 or as later amended or superseded);~~

~~(c) That the insurer may request information in advance of any premium due date of such policy of any person covered thereunder as to whether:~~

~~1. He is covered for similar benefits by another hospital, surgical or medical expense insurance policy or hospital or medical service subscriber contract or medical practice or other prepayment plan or by any other plan or program; or~~

~~2. Similar benefits are provided for, or available to, such person pursuant to, or in accordance with the requirements of, any statute;~~

~~(d) That if any such person is so covered or such statutory benefits are provided or available, and such person fails to furnish the insurer the details of such coverage within thirty-one (31) days after the date of such request, the benefits payable under the converted policy may be based on the hospital or surgical or medical expenses actually incurred after excluding expenses to the extent of the amount of benefits provided or available therefor from any of the sources referred to in paragraph (c) of this subsection; and~~

~~(e) For any provisions permitted herein and may also include any other provisions not expressly prohibited by law; and any provision required to be permitted herein may be made a part of any such policy by means of an endorsement or rider.~~]

Section 5. KRS 304.43-030 is amended to read as follows:

(1) No prepaid dental plan organization shall deliver or issue for delivery in this state any contract describing dental care services available, or any endorsement, rider, or application which becomes a part thereof or any amendment thereto or modification thereof, until a copy of the form or contract or certificate and the schedule of fees or other periodic charges to be paid by the enrollees, has been filed with and approved by the commissioner. Each form, contract, or certificate must contain a complete and clear statement of:

(a) The dental care services to which the enrollee is entitled;

(b) Any limitations on the services, benefits, deductible, or copayments features;

(c) Where and in what manner information is available as to how services may be obtained; and

(d) Any other provisions pertaining to the delivery of the dental care services.

(2) At the expiration of sixty (60) days, the form or contract so filed shall be deemed approved unless it has been previously approved or disapproved by order of the commissioner. The commissioner may withdraw approval at any time with cause.

(3) The commissioner shall disapprove any form filed under this section, or withdraw any previous approval thereof, on one (1) or more of the following grounds:

(a) If it is in any respect in violation of, or does not comply with, this chapter;

(b) If it contains or incorporates by reference, where such incorporation is otherwise permissible, any inconsistent, ambiguous, or misleading clauses, or exceptions and conditions which deceptively affect the risk purported to be assumed in the general coverage of the contract;

(c) If any title, heading, or other indication of its provisions is misleading, or is printed in such size of type or manner of reproduction as to be substantially illegible.

SECTION 6. A NEW SECTION OF SUBTITLE 43 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Each prepaid dental plan issuing dental plan contracts in this state shall, before use thereof, file with the commissioner its premium rates and classification of risks pertaining to such contracts. The prepaid dental plan shall adhere to its rates and classifications as filed with the commissioner.

(2) No filing under Section 2 of this Act that contains an increase in premium rates shall become effective until the commissioner has issued an order approving the filing. The commissioner may schedule a hearing within sixty (60) days after receiving a filing under Section 2 of this Act containing a rate increase, and after the hearing shall issue a final order approving or disapproving the filing.

(3) In approving or disapproving a filing under subsection (2) of this section, the commissioner shall consider:

(a) Whether the benefits provided are reasonable in relation to the premium charged;

(b) Previous premium rates for contracts to which the filing applies;

(c) The effect of the increase on policyholders; and

(d) Whether the prepaid dental plan has computed an enrollee's coinsurance or cost sharing on the basis of the amount actually received by a provider from the prepaid dental plan.

(4) No prepaid dental plan receiving the commissioner's approval of a filing under this section shall submit a new filing containing a rate increase for any of the same contracts until at least six (6) months have elapsed following the effective date of the approved increase.

(5) At any time, the commissioner, after an administrative hearing, may withdraw approval of the rates previously approved under this section if he determines that the benefits are no longer reasonable in relation to the premium charged.

(6) At the expiration of sixty (60) days, the filed premium rates shall be deemed approved unless approved or disapproved by order of the commissioner prior to the expiration of sixty (60) days.

(7) The commissioner may, by administrative regulation, prescribe any additional information related to rates, fees, dues, and other charges deemed necessary and relevant to be included in the filing of forms and rates required by this section.

Section 7. KRS 304.18-110 is amended to read as follows:

(1) As used in this section:

(a) "Group policy" means group health insurance policies as defined in KRS 304.18-020 and blanket health insurance policies which the commissioner, in his discretion, designates as subject to this section, which:

1. Affect the rights of a Kentucky insured and bear a reasonable relation to Kentucky, regardless of whether delivered or issued for delivery in Kentucky;

2. Provide hospital or surgical expenses benefits, other than for a specific disease or accidental injury only; and

3. Are delivered, issued for delivery, or renewed after July 15, 1986;

(b) "Medicare" means Title XVIII of the United States Social Security Act as amended or superseded.

(2) Persons insured under group policies have the right upon termination of group membership to continue coverage for themselves and their dependents upon meeting the following conditions:

(a) The group member has been covered by the group policy or any group policy it replaced for at least three (3) months; and

(b) Notice is given to the insurer and payment of the group rate is made to the insurer within thirty-one (31) days after notice pursuant to subsection (9) of this section.

(3) Continued group health insurance coverage shall terminate on the earlier of:

(a) The date eighteen (18) months after the date on which the group coverage would otherwise have terminated because of termination of group membership;

(b) If the group member fails to make timely payment of premium to the insurance company, the end of the period for which premium payment was made; or

(c) The date the group policy is terminated and is not replaced by another group policy within thirty-one (31) days.

(4) If a group policy is replaced, persons under continued group health insurance coverage under the replaced policy shall remain under such coverage under the replaced policy until it terminates pursuant to subsection (3) of this section.

(5) Group members have the right upon termination of coverage under a group policy for any reason to have a conversion health insurance policy providing substantially similar benefits issued to the group member by the insurer upon meeting the following conditions:

(a) The group member has been covered by the group policy or any policy it replaced for at least three (3) months;

(b) The group member must make written application to the insurer for conversion health insurance coverage not later than thirty-one (31) days after notice pursuant to subsection (9) of this section; and

(c) The group member must pay the monthly, quarterly, semiannual, or annual premium, at the option of the applicant, to the insurer not later than thirty-one (31) days after notice pursuant to subsection (9) of this section.

(6) Terms of conversion health insurance coverage:

(a) Conversion health insurance coverage shall be available without evidence of insurability and shall contain no pre-existing condition limitations;

(b) The premium for conversion health insurance coverage shall be according to the insurer's table of premium rates in effect on the latter of:

1. The effective date of the converted policy; or

2. The date of application when the premium rate applies to the class of risk to which the covered persons belong, to their ages, and to the form and amount of insurance provided;

(c) The conversion health insurance policy shall cover the group member and eligible dependents covered by the group policy on the date coverage under the group policy terminated;

(d) The effective date of the conversion health insurance policy shall be the date of termination of coverage under the group policy; and

(e) The conversion health insurance policy shall provide benefits substantially similar to those provided by the group policy, but not less than the minimum standards set forth in KRS 304.18-120.

(7) The right to continue group health insurance coverage and the right to conversion health insurance coverage shall also be available:

(a) To the surviving spouse, at the death of the group member, with respect to the spouse and such children whose coverage under the group policy would terminate or terminates by reason of the death of the group member;

(b) To a child solely with respect to himself upon termination of membership in the group or his coverage by reason of operation of the limiting age of coverage under the group policy while covered as a dependent thereunder; or

(c) To a former spouse for himself and such children of whom he is awarded custody when coverage under the group policy would terminate or terminates by reason of termination of dependency as defined in the group policy and resulting from an order dissolving the marriage entered by a court of competent jurisdiction.

(8) Continuation of group health insurance coverage or conversion health insurance coverage need not be granted in the following situations:

(a) The applicant is or could be covered by Medicare;

(b) The applicant is or could be covered by another group coverage (insured or uninsured) or, in the case of conversion health insurance coverage, the applicant is~~[or could be]~~ covered by substantially similar benefits by another individual hospital, surgical, or medical expenses insurance policy; or

(c) In the case of conversion health insurance coverage, the issuance of conversion health insurance coverage would cause the applicant to be overinsured according to the insurer's standards, taking into account that the applicant is or could be covered by similar benefits pursuant to or in accordance with the requirements of any statute and the individual coverage described in paragraph (b) of this subsection.

(9) Notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage shall be given as follows:

(a) 1. For group policies delivered, issued for delivery, or renewed after July 15, 1986, the insurer shall give written notice of the right to continue group health insurance coverage and the right to conversion health insurance coverage to any group member entitled to continue coverage or to conversion coverage under this section upon notice from the group policyholder that the group member has terminated membership in the group or upon termination of continued group health insurance coverage. The thirty-one (31) day period of subsections (2)(b) and (5)(b) of this section shall not begin to run until the notice required by this paragraph is mailed or delivered to the last known address of the group member; and

2. Upon replacement of a group policy, the replacing insurer shall determine if there are group members who were covered under the previous group policy who are not covered under the replacing group policy. The replacing insurer shall by writing notify the insurer which issued the previous group policy of such lack of coverage and the insurer which issued the previous group policy shall issue the notice required by paragraph (a) of this subsection;

(b) If a group member becomes entitled to obtain continued health insurance coverage or conversion health insurance coverage pursuant to this section and if such group member has not been given written notice of these rights pursuant to this subsection, such group member shall have an additional period within which to exercise continuation or conversion rights as follows:

1. The additional period shall expire fifteen (15) days after the group member is given notice, but in no event shall the additional period extend beyond sixty (60) days after the expiration of the thirty-one (31) day period following termination from the group or termination of group coverage;

2. Written notice delivered or mailed to the last known address of the group member shall constitute the giving of notice for the purpose of this paragraph; and

3. If a group member makes application and pays the premium for continued health insurance coverage or conversion health insurance coverage within the additional period allowed by this paragraph, the effective date of continued health insurance coverage shall be the date of termination from the group and the effective date of conversion health insurance coverage shall be the date of termination of group health insurance coverage.

(10) Before a group policy may be replaced, the employer shall give at least thirty (30) days written notice by certified mail to any employee covered under the replaced policy who will not be covered under the new policy.

Section 8. KRS 304.17A-080 is amended to read as follows:

(1) There is hereby created and established a Health Insurance Advisory Council whose duties shall be to review and discuss with the commissioner any issues which impact the provision of health insurance in the state. The advisory council shall consist of seven (7) members: the commissioner plus six (6) persons appointed by the Governor with the advice of the commissioner to serve two (2) year terms. The commissioner shall serve as chair of the advisory council.

(2) The six (6) persons appointed by the Governor with the advice of the commissioner shall be:

(a) Two (2) representatives of insurers currently offering health benefit plans in the state;

(b) Two (2) practicing health care providers; and

(c) Two (2) representatives of purchasers of health benefit plans.

(3) The council shall:

(a) Review and discuss the design of the standard health benefit plan;

(b) Review and discuss the rate-filing process for all health benefit plans;

(c) Review and discuss the administrative regulations concerning this subtitle to be promulgated by the department;

(d) Make recommendations on high-cost conditions as provided in subsection (5) of this section; and

(e) Review and discuss other issues at the request of the commissioner.

(4) The advisory council shall be a budgetary unit of the department which shall pay all of the advisory council's necessary operating expenses and shall furnish all office space, personnel, equipment, supplies, and technical or administrative services required by the advisory council in the performance of the functions established in this section.

(5) No less than annually, the Health Insurance Advisory Council shall review the list of high-cost conditions established by the commissioner under KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ and 304.17A-280 and recommend changes to the commissioner. The commissioner may accept or reject any or all of the recommendations and may make whatever changes by administrative regulation the commissioner deems appropriate. The council, in making recommendations, and the commissioner, in making changes, shall consider, among other things, actual claims and losses on each diagnosis and advances in treatment of high-cost conditions.

(6) For each calendar year that the Kentucky Guaranteed Acceptance Program is operating, every insurer shall report to the commissioner and the Health Insurance Advisory Council, in the form and at the time as the commissioner by administrative regulation may specify, information that the commissioner deems necessary for the council and commissioner to evaluate the list of high-cost conditions as required under this section.

Section 9. KRS 304.17A-210 is amended to read as follows:

Each insurer that issues health benefit plans in the individual market shall be required to issue health benefit plans in the individual market on a guaranteed-issue basis as follows:

(1) An eligible individual shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market;

(2) Except as provided in subsection (3) of this section, an individual who has been a resident of Kentucky for at least twelve (12) months shall be entitled to have coverage issued from the insurer under the standard health benefit plan or any other health benefit plan sold by the insurer in the individual market; and

(3) Except as provided in subsection (4) of this section, if the individual is a guaranteed acceptance program qualified individual and the insurer is a guaranteed acceptance program participating insurer, then the individual shall be entitled to have coverage issued under either:

(a) The standard health benefit plan; or

(b) The insurer's two (2) health benefit plans, other than the standard health benefit plan, sold by it in the individual market in Kentucky, or in the applicable marketing or service area as may be prescribed by the commissioner by administrative regulation, with the largest annual premium volume; except that the insurer shall make all necessary adjustments to the health benefit plans sold so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process. During the period of July 1, 1998, to June 30, 1999, the guaranteed acceptance program participating insurer may designate upon approval of the commissioner any health benefit plans made generally available to, and actively marketed in, the individual market as this option. The insurer shall make all necessary adjustments to the designated health benefit plans so that they qualify as a guaranteed acceptance program plan and can be included in the guaranteed acceptance program risk adjustment process.

(4) If the insurer does not generally operate in the individual market and has elected under KRS 304.17A-420(3)(a) to be a guaranteed acceptance program participating insurer without generally operating in the individual market, then an individual who is a guaranteed acceptance program qualified individual shall be entitled to have coverage issued from that insurer only under the standard health benefit plan.

(5) (a) No insurer, who was not offering health benefit plans in Kentucky on January 1, 1998, shall be required to accept annually under this section individuals who, in the aggregate, would cause the insurer to have a total number of new insureds with high-cost conditions as defined in KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ or which exceed an insurer's underwriting guidelines as approved by the commissioner under KRS 304.17A-430(3)(b) per year that is more than one-half of one per cent (0.5%) of the total number of individuals insured by the insurer under individual health benefits plans issued or issued for delivery in the Commonwealth, calculated as of the immediately preceding thirty-first day of December.

(b) The commissioner shall, by administrative regulation, establish equitable enrollment limits for the first twelve (12) months, and any remaining portion of the calendar year after the expiration of that twelve (12) month period, in which an insurer first begins doing business in the individual market. These limits shall be based on the insurer's quarterly enrollment in health benefit plans offered in the individual market in the Commonwealth.

(c) An officer of the insurer shall certify to the department when it has met the enrollment limit established in this subsection. Upon providing this certification, the insurer shall be relieved of its guaranteed issue requirement under this section for the remainder of the calendar year.

(d) If all insurers that are required to offer coverage on a guaranteed-issue basis meet the enrollment limit established in this subsection prior to the end of the calendar year, then all such insurers shall again accept individuals for guaranteed issue coverage, subject to the enrollment limit established in this subsection.

(e) If certification of the enrollment limit would leave any county in the Commonwealth without an insurer to provide coverage in the individual market, the commissioner may require any insurer that meets the criteria in KRS 304.17A-420(1) to continue to offer coverage in that county. The commissioner shall proportionally increase the enrollment limit under this subsection for all other insurers that do not meet the criteria of KRS 304.17A-420(1).

(6) An insurer that elects to use the alternative underwriting mechanism under KRS 304.17A-430(3) shall offer to those insureds who are subject to the alternative underwriting mechanism the standard plan and the two (2) plans offered by the insurer with the largest premium volume for the last calendar year.

(7) For the purposes of this section and KRS 304.17A-250, insurers whose activities in the individual market are limited to the renewal of health benefit plans issued prior to July 15, 1995, shall not be deemed to be doing business in the individual market.

(8) Subsections (1) to (7) of this section shall not apply to a health benefit plan offered by an insurer if the coverage is made available in the individual market only through one (1) or more bona fide associations.

Section 10. KRS 304.17A-430 is amended to read as follows:

(1) A health benefit plan shall be considered a program plan and is eligible for inclusion in calculating assessments and refunds under the program risk adjustment process if it meets all of the following criteria:

(a) The health benefit plan was purchased by an individual to provide benefits for only one (1) or more of the following: the individual, the individual's spouse, or the individual's children. Health insurance coverage provided to an individual in the group market or otherwise in connection with a group health plan does not satisfy this criteria even if the individual, or the individual's spouse or parent, pays some or all of the cost of the coverage unless the coverage is offered in connection with a group health plan that has fewer than two (2) participants as current employees on the first day of the plan year;

(b) An individual entitled to benefits under the health benefit plan has been diagnosed with a high-cost condition on or before the effective date of the individual's coverage for coverage issued on a guarantee-issue basis after July 15, 1995;

(c) The health benefit plan imposes the maximum pre-existing condition exclusion permitted under KRS 304.17A-200;

(d) The individual purchasing the health benefit plan is not eligible for or covered by other coverage; and

(e) The individual is not a state employee eligible for or covered by the state employee health insurance plan under KRS Chapter 18A.

(2) Notwithstanding the provisions of subsection (1) of this section, if the total claims paid for the high-cost condition under a program plan for any three (3) consecutive years are less than the premiums paid under the program plan for those three (3) consecutive years, then the following shall occur:

(a) The policy shall not be considered to be a program plan thereafter until the first renewal of the policy after there are three (3) consecutive years in which the total claims paid under the policy have exceeded the total premiums paid for the policy and at the time of the renewal the policy also qualifies under subsection (1) as a program plan; and

(b) Within the last six (6) months of the third year, the insurer shall provide each person entitled to benefits under the policy who has a high-cost condition with a written notice of insurability. The notice shall state that the recipient may be able to purchase a health benefit plan other than a program plan and shall also state that neither the notice nor the individual's actions to purchase a health benefit plan other than a program plan shall affect the individual's eligibility for plan coverage. The notice shall be valid for six (6) months.

(3) (a) There is established within the guaranteed acceptance program the alternative underwriting mechanism that a participating insurer may elect to use. An insurer that elects this mechanism shall use the underwriting criteria that the insurer has used for the past twelve (12) months for purposes of the program plan requirement in paragraph (b) of subsection (1) of this section for high risk individuals rather than using the criteria established in KRS ***304.17A-005(20)***~~[304.17A-005(19)]~~ and 304.17A-280 for high cost conditions;

(b) An insurer that elects to use the alternative underwriting mechanism shall make written application to the commissioner. Before the insurer may implement the mechanism, the insurer shall obtain approval of the commissioner. Annually thereafter, the insurer shall obtain the commissioner's approval of the underwriting criteria of the insurer before the insurer may continue to use the alternative underwriting mechanism.

Section 11. KRS 304.17-312 is amended to read as follows:

As used in KRS 304.17-313,~~[304.17-410,]~~ 304.18-037, 304.32-280, and 304.38-210:

(1) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and is certified to participate as a home health agency under Title XVIII of the Social Security Act.

(2) "Home health care" means the care and treatment provided by a home health agency which is prescribed and supervised by a physician. The care and treatment shall include but not be limited to one (1) or more of the following:

(a) Part-time or intermittent skilled nursing services provided by an advanced registered nurse practitioner, registered nurse, or licensed practical nurse;

(b) Physical, respiratory, occupational, or speech therapy;

(c) Home health aide services;

(d) Medical appliances and equipment, drugs and medication, and laboratory services, to the extent that such items and services would have been covered under the policy if the covered person had been in a hospital.

(3) "Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include but not be limited to the following:

(a) Helping the patient with bath, care of mouth, skin, and hair;

(b) Helping the patient to the bathroom or in using a bedpan;

(c) Helping the patient in and out of bed and assisting with ambulation;

(d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;

(e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician;

(f) Performing incidental household services as are essential to the patient's health care at home provided that such services would have been performed if the patient was in a hospital or skilled nursing facility; and

(g) Reporting to the professional nurse supervisor changes in the patient's condition or family situation.

Section 12. KRS 18A.229 is amended to read as follows:

(1) State employees as defined in KRS 18A.228 participating in the health insurance fund authorized in KRS 42.805 shall be given at least three (3) alternative plans from which participation may be chosen. One (1) plan shall require no fixed deductible expenses and reasonable co-payment ratios.

(2) State employees whose income is at or below one hundred percent (100%) of the nonfarm income official poverty guidelines as determined by the United States Department of Health and Human Services, may choose health insurance benefits ***that cover emergency medical services and basic inpatient hospital services, which shall include at least fourteen (14) days room and board and at least fifty percent (50%) of the related charges for physician's services***~~[described in KRS 304.18-025(2)(c) and (d)]~~.

Section 13. The following KRS section are repealed:

147A.130 Fee to cover administrative costs of health care trusts -- Referral fees prohibited.

304.17-410 Department to collect data concerning cost of health insurance -- Report to General Assembly.

304.18-025 Health care trust.

304.18-055 Pooling of claims experience required.

HB 619, AN ACT relating to motor vehicle insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the Department of Information Systems for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, the department shall immediately ***make a determination as to the notification of***~~[notify]~~ the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the~~[department or the]~~ county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

(a) The person presents proof of insurance to the~~[department or]~~ county clerk and pays the reinstatement fee required by KRS 186.180;

(b) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

(c) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

(d) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section. The notice that the department gives to the county attorney in accordance with subsection (2) of this section shall include a certified copy of the person's driving record which shall include:

(a) The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

(b) A dated notice that the department sent to the person requiring the person to present proof of insurance to the~~[department or the]~~ county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with subsection (2) of this section.

(4) The certified copies sent by the department described in subsection (3) of this section, shall be prima facie evidence of a violation of KRS 304.39-080.

(5) If the insured provides proof of insurance to the~~[department or the]~~ clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

HB 662, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 12 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Because the posting of the Ten Commandments in a public school building is a lawful posting of a historical document under KRS 158.195, no liability insurer shall refuse to pay under the terms of the policy an insured who is sued for posting the Ten Commandments in compliance with KRS 158.195 in a public school building on the grounds that this act by the insured constitutes an illegal act for which the insurer is not liable to pay under the terms of the policy.

HB 697, AN ACT relating to state employee health benefits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The ***State Health Benefits Commission, created in Section 2 of this Act***~~[secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet]~~, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or

policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The ***State Health Benefits Commission***[~~secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet,~~] may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The ***State Health Benefits Commission***[~~secretary of the Finance and Administration Cabinet~~] is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The secretary shall***, until October 31, 2000,*** appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member

representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly. *The members of the advisory committee in existence on the effective date of this Act shall serve until October 31, 2000, at which time their terms shall expire and the advisory committee shall cease to exist.*

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

SECTION 2. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

(1) The State Health Benefits Commission is hereby created to procure comprehensive, affordable health insurance for state employees and shall begin operations on October 1, 2000. The commission is responsible for state employee health benefits plan policy and management. The commission may promulgate administrative regulations as may be deemed reasonable and necessary to implement the provisions of Sections 1, 2, 3, 4, 5, and 6 of this Act.

(2) The State Health Benefits Commission shall consist of ten (10) members. The members shall include the secretary of the Finance and Administration Cabinet, the secretary of the Personnel Cabinet, the state budget director, the Auditor of Public Accounts who shall be a nonvoting member, the commissioner of the Department of Insurance who shall be a nonvoting member, the chair of the State Employees Health Benefits Advisory Committee, and four (4) state employees appointed by the Governor.

(3) The four (4) state employees appointed by the Governor shall include:

(a) One (1) retired state employee appointed from a list of three (3) names submitted by the Kentucky Retirement Systems, who shall serve an initial term of one (1) year;

(b) One (1) retired teacher appointed from a list of three (3) names submitted by the Teachers Retirement System, who shall serve an initial term of two (2) years;

(c) One (1) active teacher, who shall serve an initial term of three (3) years; and

(d) One (1) active state employee, who shall serve an initial term of four (4) years.

Thereafter, as each term expires, the vacancy created shall be filled by appointment by the Governor for a term of four (4) years. An appointment to fill an unexpired term of a member shall be for the remainder of the term.

(4) The Governor shall appoint a chair from the membership of the commission. The commission may elect by majority vote other officers it deems necessary from its members.

(5) Each voting member of the commission who is not an employee of state government shall be compensated five thousand dollars ($5,000) annually, except the chair, who shall be paid seven thousand five hundred dollars ($7,500) annually. The members of the commission shall be reimbursed for necessary travel and lodging expenses in accordance with administrative regulations promulgated under KRS Chapter 13A by the Finance and Administration Cabinet for state employees. The commission shall meet at least quarterly and its meetings shall be public meetings.

(6) The commission shall have all of the duties, powers, and authority granted in Sections 1, 2, 3, 4, 5, and 6 of this Act and all other powers necessary or convenient to carry out and effectuate the purposes for which the commission is established.

(7) The commission, without limitation by the provisions of KRS Chapter 18A and KRS Chapter 64, shall, by no later than January 1, 2001, employ and set the salary of an executive director, who shall be appointed by and shall serve at the pleasure of the commission. The executive director shall have proven successful experience, for a period of at least five (5) years, as an executive at the general management level in public or private insurance operations. The executive director shall conduct the day-to-day operations of the commission for the purpose of carrying out the policies and procedures of the commission. The commission shall hire additional staff that shall have expertise in employee benefit design, analysis of health insurance markets, estimation of actuarial risk, prudent financial management, appropriate accounting protocols, contract negotiation, health benefits purchasing, claims administration, and third-party administrator oversight.

(8) The Auditor of Public Accounts shall be responsible for conducting an annual audit of the commission. The costs of the annual audit shall be borne by the commission.

(9) (a) The commission shall appoint twenty-four (24) persons to a State Employees Health Benefits Advisory Committee to advise the commission regarding the state health insurance program for state employees. The commission shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts who shall serve an initial term of one (1) year, members representing state government from each of the seven (7) Supreme Court districts who shall serve an initial term of two (2) years, two (2) members representing retirees under age sixty-five (65) who shall serve an initial term of one (1) year, one (1) member representing local health departments who shall serve an initial

term of two (2) years, and three (3) members at large who shall serve an initial term of one (1) year. The commission shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association who shall serve an initial term of two (2) years and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees who shall serve an initial term of one (1) year. Thereafter, as each term expires, the vacancy created shall be filled in November by appointment by the Governor for a term of two (2) years.

(b) The advisory committee shall be appointed in November of each year and shall meet quarterly. The membership of the committee shall elect a chair of the committee annually.

SECTION 3. A NEW SECTION OF KRS CHAPTER 42 IS CREATED TO READ AS FOLLOWS:

The State Health Benefits Commission shall:

(1) Design health benefit plans for the state employees group, enter into negotiations with insurers and third-party administrators, and take all appropriate actions to procure comprehensive, affordable health insurance coverage for the state employees group as required by Section 1 of this Act;

(2) Gather and analyze necessary data to provide quality, affordable health insurance for the state employees group, develop the capacity to self-insure the state health benefits plan, and develop the capacity to monitor the operations of contractors;

(3) Require health insurers, as a condition of offering health benefit plans to the state employees group, to submit complete and detailed enrollment and claims data to the commission on a timely basis;

(4) Promptly following the close of the first quarter of calendar year 2001, and after each quarter of each calendar year thereafter, submit a quarterly detailed report to the Legislative Research Commission on the distribution of enrollment, on claims, and on the financial stability of the program;

(5) Study and make recommendations to the General Assembly regarding increasing the state contribution to provide support for dependent coverage;

(6) Restrict the amount the state may contribute to an employee's flexible spending account to seventy-five percent (75%) of the state contribution per employee, except for retirees living out-of-state who may receive the full contribution from the state;

(7) Require municipal, urban-county, charter county, and county governments and state institutions of postsecondary education and any other employer of state employees as defined in KRS 18A.225, whose retirees are members of the state employees group, but whose active employees are not participants in the state employees group, be assessed an amount determined by the commission that shall be a percentage of the premiums paid by such entity's active employees on health benefit plans to balance any additional costs that would accrue to state employees group members from having such entity's retirees as members of the state employees group; and

(8) Promptly following the close of calendar year 2001, and each calendar year thereafter, submit an annual report to the General Assembly, the Governor, and state employees group members.

Section 4. KRS 42.805 is amended to read as follows:

(1) The ***State Health Benefits Commission***[~~Kentucky Kare Health Insurance Authority~~] may establish a Kentucky Kare health insurance fund to provide for self-insurance of all risk in the provision of benefits comparable to those that may be paid under a policy or contract procured by the ***commission***[~~secretary of the Finance and Administration Cabinet~~] as provided in KRS 18A.225(2). All moneys remaining in this fund at the end of the fiscal year, and deposited thereafter, including earnings from their investment, shall be deemed a trust and agency account, shall not lapse, and shall be continuously appropriated only for the purposes specified in this section.

(2) (a) Benefits provided under this section include, but are not limited to, hospitalization, surgical care, and major medical care for state employees and their dependents.

(b) For purposes of this section and KRS 42.810 to 42.825, the term "state employee" shall be defined as provided in KRS 18A.228.

(3) The contributions made to this fund may be paid:

(a) From funds contributed by the covered employee through payroll deduction or otherwise;

(b) From funds contributed by the state or any department, board, or agency, or branch of state, city, county, urban-county, or charter county; or

(c) From a combination of paragraphs (a) and (b) of this subsection, except that any amount due over that contributed by the state or any department, board, agency, or branch of state, city, urban-county, charter county, or county government for coverage shall be paid by the employee.

(4) No contribution by the state or any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for purposes of any statute fixing or limiting the compensation of the employee. Any expense incurred by the state or department, board, or agency shall be considered

a proper cost of administration.

(5) The self-funded plan may contain provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions as the ***State Health Benefits Commission***[~~Kentucky Kare Health Insurance Authority~~] may approve.

(6) Group rates for the health care coverage provided under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

Section 5. KRS 42.810 is amended to read as follows:

(1) The ***State Health Benefits Commission***[~~Kentucky Kare Health Insurance Authority~~] shall be responsible for all moneys coming into, and paid out of, the fund in accordance with this section, and shall ensure that the fund is actuarially sound.

(2) In carrying out its duties and responsibilities, the ***State Health Benefits Commission***[~~Kentucky Kare Health Insurance Authority~~] shall:

(a) Promulgate administrative regulations with regard to the administration of the fund;

(b) Promulgate administrative regulations governing the conditions under which an employee may participate in or withdraw from the fund, and the procedure by which an employee is to contribute to the fund;

(c) Promulgate administrative regulations to ensure that the fund is actuarially sound;

(d) Promulgate administrative regulations to ensure the integrity of the fund, and to ensure that the fund be used solely for the purposes specified in this section;

(e) Purchase conversion insurance, reinsurance, or excess insurance as deemed appropriate;

(f) Contract, when advisable, with health providers for services as may best serve the interest of the fund;

(g) Promulgate administrative regulations for the operation of the ***commission***[~~authority~~];

(h)[~~Offer standard health benefit plans to all Kentucky Health Purchasing Alliance members;~~

~~(i)~~] Recommend an annual operating budget for the ***operation of the self-insured plan***[~~authority~~]; and

(i)[~~(j)~~] Develop broad policies for the long-term operation of the ***self-insured plan***[~~authority~~] consistent with its mission and fiduciary responsibility.

(3) Amounts withheld from employees, amounts contributed by the state or from federal funds, and all amounts contributed by any state authority shall be credited to and constitute a part of the fund. All other income, including the income derived from any dividends and distributions and interest earned, shall also be credited to and constitute part of the fund. Any amounts remaining in the fund after all the premiums or subscription charges and other expenses have been paid shall be retained in the fund as a special reserve for adverse fluctuation.

(4) (a) The State Treasurer, with approval of every investment by the Finance and Administration Cabinet, may invest the fund in:

1. Obligations of the United States government, its agencies, and Kentucky cities of the first, second, third, and fourth classes;

2. Warrants issued on the State Treasurer;

3. State bonds, including bridge revenue bonds issued under KRS 180.010 to 180.250;

4. Bonds or other evidences of indebtedness of any domestic corporation that is an agent or instrumentality of the state or of any city, county, or school district of the state, secured by a mortgage on real estate in Kentucky that has been conveyed to the corporation by any city, county, school district, or state educational institution, and which the corporation has leased and given the option to lease to the city, county, school district, or state educational institution, with option in the lessee to purchase the property, or an interest therein, on the payment of the aggregate sum of the bond issue, plus the expenses incident to the issuance of the bonds and the formation and dissolution of the corporation, subject to credit of the amounts paid as rental for such property; and

5. School bonds issued by cities under the provisions of KRS 162.120 to 162.290.

(b) The Finance and Administration Cabinet shall not approve investments on which there has ever been a default in payment of principal or interest preceding the date of acceptance by the State Treasurer.

(c) All income derived from the investments shall accrue to the fund.

(d) Any necessary and reasonable cost incurred by the State Treasurer in administering this program shall be charged against the fund.

(5) (a) The ***State Health Benefits Commission***[~~Kentucky Kare Health Insurance Authority~~] shall file annually, by the first day of October, a complete report of its operations for the preceding calendar year, with the Governor, the General

Assembly, and the Auditor of Public Accounts. The financial information required by this section shall be verified by the Auditor of Public Accounts as provided in KRS 43.050.

(b) The report shall include a detailed financial statement of the fund and the expenses incurred pursuant to this section so that the cost of the fund established under this section can be determined and identified. The report shall include, but not be limited to, the following information concerning the fund:

1. Assets and liabilities;
2. Income and expenditures;
3. Benefits paid and reserves for losses incurred but not yet paid, including potential losses and unreported losses;
4. Cost of any excess insurance, conversion coverage, reinsurance, or of any other kind of insurance obtained to cover potential losses, or provide supplemental benefits; and
5. Direct and indirect costs attributable to the use of outside consultants, independent contractors, and any other persons who are not state employees.

(c) The report shall also contain the following information:

1. The actuarial report for the preceding calendar year and any other studies or evaluations prepared in the preceding year pursuant to subsection (6) of this section;
2. A description of the benefits provided by the fund and the number of state employees covered under the fund;
3. The rights of state employees who terminate their employment and the extent of benefits or coverages thereafter available to those persons and their dependents; and
4. Any other information which is relevant in order to make full, fair, and effective disclosure of the operations of the fund conducted pursuant to this section.

(6) The ***State Health Benefits Commission***~~[Kentucky Kare Health Insurance Authority]~~ shall have prepared every year, by a competent actuary familiar with health insurance, a report showing a complete actuarial evaluation of the fund and the adequacy of the rates of contribution. The report shall contain such recommendations as the actuary considers advisable. The ***commission***~~[authority]~~ may at any time request the actuary to make any studies or evaluations to determine the adequacy of the rates of contribution. Contribution rates may be adjusted by the ***commission***~~[authority]~~, as recommended by the actuary, and shall become effective the first day of the following fiscal year.

Section 6. KRS 42.820 is amended to read as follows:

The ***State Health Benefits Commission***~~[Kentucky Kare Health Insurance Authority]~~ shall determine the date on which the self-funded health plan option shall be made available to state employees.

Section 7. KRS 18A.2253 is amended to read as follows:

Notwithstanding the provisions of KRS 18A.225, the area development districts may jointly establish an employee benefit fund to provide for self-insurance of all risks in the provision of benefits for district employees comparable to those that may be paid under a policy or contract procured by the ***State Health Benefits Commission***~~[secretary of Finance and Administration Cabinet]~~ as provided in KRS 18A.225(2).

Section 8. The functions and duties of the Personnel Cabinet pertaining to health insurance benefits for state employees shall be transferred to the State Health Benefits Commission beginning on October 1, 2000, and completed no later than April 1, 2001. The Personnel Cabinet and the Finance and Administration Cabinet shall cooperate with the Commission in transferring duties pertaining to the state employee health insurance program to the Commission and take all steps necessary to effectuate the provisions of this Act.

The Committee on Economic Development reported **HB 504,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 504, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

(a) "Agriculture" means the business of raising or producing:

1. Tobacco;
2. Crops, the products from which are to be used for food for human consumption;
3. Livestock, the products of which ordinarily constitute food for human consumption;

4. Milk and dairy products;

5. Eggs and egg products; or

6. Horses.

(b) "Distressed county" means a county that has a countywide unemployment rate that is equal to or greater than two hundred percent (200%) of the statewide average over the most recent five (5) consecutive calendar years, or which has had an average countywide rate of unemployment that is equal to or greater than two hundred percent (200%) of the statewide unemployment average of the most recent twelve (12) consecutive months for which unemployment figures are available, as calculated by the Department for Employment Services within the Cabinet for Workforce Development;

(c) "Horticulture" means the business of cultivating land or raising fruits, nuts, vegetables, flowers, ornamental plants, timber, or any other legally grown product.

(d) "Industry" means any legal business enterprise formed and operated for profit, but shall not include a business devoted to the retail sale of goods and services.

(e) "Qualified property" means:

1. New machinery or equipment used in industry, agriculture, or horticulture; or

2. Agricultural breeding stock.

(f) "Qualified structure" means any new single-purpose structure used to house any qualified property and any single purpose agricultural or horticultural structure.

(2) A nonrefundable "business improvement tax credit" is allowed with respect to any purchase or lease of qualified property or qualified structures, the total annual cost of which is from twenty-five thousand dollars ($25,000) to three million dollars ($3,000,000), against the tax imposed by KRS 141.020, 141.040, and 136.070 for a taxpayer who is not eligible or does not choose any of the incentives granted in subchapters 22, 24, 26, 28, and 29 of KRS Chapter 154, and who purchases or leases qualified property that the taxpayer locates in this state, or constructs or leases a qualified structure in this state. The period of time during which an industry is eligible for the credit shall be five (5) years and shall commence from the first calendar year that an industry claims the credit. The amount of the available credit shall be equal to eight percent (8%) of the cost of the qualified property purchased or leased, and eight percent (8%) of the cost of the qualified structure constructed or leased. For taxpayers whose initial purchase or lease and utilization of qualified property or qualified structures in a distressed county occurs during the calendar year in which a county is classified as distressed, the amount of the credit shall be equal to twelve percent (12%) of the cost of the qualified property purchased or leased, and twelve percent (12%) of the cost of the qualified structure constructed or leased. If the taxpayer is a pass-through entity, the credit shall pass through in the same proportion as the distributive share of income or loss is passed through.

(3) If the credit is claimed against the tax imposed by KRS 141.020 or 141.040 then the amount of the credit that is allowed is the lesser of:

(a) The amount of the available credit; or

(b) The amount by which the current taxable year's income tax liability, computed without regards to the credit, exceeds the prior taxable year's income tax liability by one hundred five percent (105%) or twenty-five thousand dollars ($25,000), whichever is less.

Any unused credit may be carried forward indefinitely.

(4) If the credit is claimed against the tax imposed by KRS 136.070 then the amount of the credit that is allowed is the lesser of:

(a) The amount of the available credit; or

(b) The amount by which the current taxable year's license tax liability, computed without regards to the credit, exceeds the prior taxable year's license tax liability by one hundred five percent (105%) or twenty-five thousand dollars ($25,000), whichever is less.

Any unused credit may be carried forward indefinitely.

(5) A taxpayer who claims this credit shall repay the credit if the qualified structure or qualified property for which the credit was granted is disposed of or otherwise ceases to be used as a qualified structure or qualified property, or is removed from this state, at the following rate: one hundred percent (100%) if less than one (1) year, seventy-five percent (75%) if at least one (1) year but less than two (2) years, fifty percent (50%) if at least two (2) years but less than three (3) years, twenty-five percent (25%) if at least three (3) years but less than four (4) years, no repayment if four (4) or more years. If a taxpayer has unused business improvement tax credit that is being carried forward, a reduction in the amount of the credit carried forward shall be considered a repayment.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

  (a) The individual credits permitted by KRS 141.020(3);

  (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

  (c) The health insurance credit permitted by KRS 141.062;

  (d) The tax paid to other states credit permitted by KRS 141.070;

  (e) The credit for hiring the unemployed permitted by KRS 141.065;

  (f) The recycling or composting equipment credit permitted by KRS 141.390;

  (g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

  (h) The low income credit permitted by KRS 141.066;~~[and]~~

  (i) The household and dependent care credit permitted by KRS 141.067***; and***

  (j) The business improvement tax credit permitted by Section 1 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

  (a) The individual withholding tax credit permitted by KRS 141.350; and

  (b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

  (a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

  (b) The health insurance credit permitted by KRS 141.062;

  (c) The unemployment credit permitted by KRS 141.065;

  (d) The recycling or composting equipment credit permitted by KRS 141.390;

  (e) The coal conversion credit permitted by KRS 141.041;

  (f) The enterprise zone credit permitted by KRS 154.45-090;~~[and]~~

  (g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263***; and***

  (h) The business improvement tax credit permitted by Section 1 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 3. Sections 1 and 2 of this Act shall apply for taxable years beginning after December 31, 1999.

The Committee Substitute No. 1 to **HB 504** is as follows:

HB 504, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section:

  (a) "Agriculture" means the business of raising or producing:

    1. Tobacco;

    2. Crops, the products from which are to be used for food for human consumption;

    3. Livestock, the products of which ordinarily constitute food for human consumption;

    4. Milk and dairy products;

    5. Eggs and egg products; or

    6. Horses.

  (b) "Distressed county" means a county that has a countywide unemployment rate that is equal to or greater than two hundred percent (200%) of the statewide average over the most recent five (5) consecutive calendar years, or which has had an average countywide rate of unemployment that is equal to or greater than two hundred percent (200%) of the statewide unemployment average of the most recent twelve (12) consecutive months for which unemployment figures are available, as calculated by the Department for Employment Services within the Cabinet for Workforce Development;

  (c) "Horticulture" means the business of cultivating land or raising fruits, nuts, vegetables, flowers, ornamental plants, timber, or any other legally grown product.

(d) "Industry" means any legal business enterprise formed and operated for profit, but shall not include a business devoted to the retail sale of goods and services.

(e) "Qualified property" means:

1. Machinery or equipment used in industry, agriculture, or horticulture; or

2. Agricultural breeding stock.

(f) "Qualified structure" means any new single-purpose structure used to house any qualified property and any single purpose agricultural or horticultural structure.

(2) A nonrefundable "business improvement tax credit" is allowed with respect to any purchase or lease of qualified property or qualified structures, providing that each individual piece of property or structure has a cost greater than one thousand dollars ($1,000) and the total aggregate annual cost shall be a minimum of twenty five thousand dollars ($25,000) and a maximum of three million dollars ($3,000,000). The maximum amount from which a credit may be calculated for expenditures for qualified property or qualified structures shall be three million dollars ($3,000,000). The credit may be allowed against the tax imposed by KRS 141.020, 141.040, and 136.070 for a taxpayer who is not eligible or does not choose any of the incentives granted in subchapters 22, 24, 26, 28, and 29 of KRS Chapter 154, and who purchases or leases qualified property that the taxpayer locates in this state, or constructs or leases a qualified structure in this state. The period of time during which an industry is eligible for the credit shall be five (5) years and shall commence from the first calendar year that an industry claims the credit. The amount of the available credit shall be equal to eight percent (8%) of the cost of the qualified property purchased or leased, and eight percent (8%) of the cost of the qualified structure constructed or leased. For taxpayers whose initial purchase or lease and utilization of qualified property or qualified structures in a distressed county occurs during the calendar year in which a county is classified as distressed, the amount of the credit shall be equal to twelve percent (12%) of the cost of the qualified property purchased or leased, and twelve percent (12%) of the cost of the qualified structure constructed or leased. If the taxpayer is a pass-through entity, the credit shall pass through in the same proportion as the distributive share of income or loss is passed through.

(3) If the credit is claimed against the tax imposed by KRS 141.020 or 141.040 then the amount of the credit that is allowed is the lesser of:

(a) The amount of the available credit; or

(b) The amount by which the current taxable year's income tax liability, computed without regards to the credit, exceeds the prior taxable year's income tax liability by five percent (5%) or twenty-five thousand dollars ($25,000), whichever is less.

Any unused credit may be carried forward indefinitely.

(4) If the credit is claimed against the tax imposed by KRS 136.070 then the amount of the credit that is allowed is the lesser of:

(a) The amount of the available credit; or

(b) The amount by which the current taxable year's license tax liability, computed without regards to the credit, exceeds the prior taxable year's license tax liability by five percent (5%) or twenty-five thousand dollars ($25,000), whichever is less.

Any unused credit may be carried forward indefinitely.

(5) A taxpayer who claims this credit shall repay the credit if the qualified structure or qualified property for which the credit was granted is disposed of or otherwise ceases to be used as a qualified structure or qualified property, or is removed from this state, at the following rate: one hundred percent (100%) if less than one (1) year, seventy-five percent (75%) if at least one (1) year but less than two (2) years, fifty percent (50%) if at least two (2) years but less than three (3) years, twenty-five percent (25%) if at least three (3) years but less than four (4) years, no repayment if four (4) or more years. If a taxpayer has unused business improvement tax credit that is being carried forward, a reduction in the amount of the credit carried forward shall be considered a repayment.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;
(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;
(h) The low income credit permitted by KRS 141.066;[~~ and~~]
(i) The household and dependent care credit permitted by KRS 141.067***; and***
(j) The business improvement tax credit permitted by Section 1 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:
(a) The individual withholding tax credit permitted by KRS 141.350; and
(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:
(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;
(b) The health insurance credit permitted by KRS 141.062;
(c) The unemployment credit permitted by KRS 141.065;
(d) The recycling or composting equipment credit permitted by KRS 141.390;
(e) The coal conversion credit permitted by KRS 141.041;
(f) The enterprise zone credit permitted by KRS 154.45-090;[~~ and~~]
(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263***; and***
(h) The business improvement tax credit permitted by Section 1 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

Section 3. Sections 1 and 2 of this Act shall apply for taxable years beginning after December 31, 1999.

The Committee on Agricultural and Small Business reported **HB 568,** with Committee Substitute attached thereto, **HB 665,** and **HB 696** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 568, AN ACT relating to dog license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;
(2) "Commissioner" means the Commissioner of Agriculture;
(3) "Committee" means the advisory committee created by KRS 258.115;
(4) "Dog" means any member of the canine family, six (6) months of age or over;
(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;
(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;
(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;
(8) "***Commercial*** kennel" means any establishment where dogs ***not owned by the owner of the commercial kennel*** are kept for the purpose of breeding, sale, show***,*** or sporting purposes, and which is[~~ so~~] constructed ***to prohibit dogs from straying***[~~that dogs cannot stray therefrom~~];
(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;
(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;
(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog; and
(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances.

Section 2. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of ***five dollars ($5)***~~[one dollar and fifty cents ($1.50)]~~ for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the Commonwealth in the collection of the license fees~~[provided for herein]~~, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of ***fifty cents ($0.50)***~~[twenty-five cents ($0.25)]~~ for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be ***distributed as follows:***

(a) The respective county in which the license is sold shall receive two dollars and fifty cents ($2.50) for use in meeting the expenses of animal control in the respective county;

(b) The Animal Control Advisory Board, created by KRS 258.117, shall receive one dollar ($1); and

(c) The livestock fund shall receive one dollar ($1)~~[credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties]~~.

(2) Any county may choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

Section 3. KRS 258.165 is amended to read as follows:

(1) Any person who keeps or operates a ***commercial*** kennel ***shall***~~[may, in lieu of the license for each dog required by KRS 258.135,]~~ apply to the dog warden for a ***commercial*** kennel license entitling him to keep or operate a ***commercial*** kennel. ***The***~~[Such]~~ application shall be accompanied by a license fee of ***twenty-five dollars ($25)***~~[ten dollars ($10) for each license to keep ten (10) dogs or less and fifteen dollars ($15) for each license to keep more than ten (10) dogs. Such license fees shall be collected, paid to the department, and credited to the livestock fund in the same manner as the regular dog license fees]~~. ***For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of fifty cents ($0.50) for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be distributed as follows:***

(a) The respective county in which the license is sold shall receive fifteen dollars ($15) for use in meeting the expenses of animal control in the respective county;

(b) The Animal Control Advisory Board, created by KRS 258.117, shall receive four dollars and fifty cents ($4.50); and

(c) The livestock fund shall receive five dollars ($5).

(2) A ***commercial*** kennel license shall be issued on a form prescribed and supplied by the department.

(3) ***Each dog kept in a commercial kennel shall be licensed as provided by KRS 258.135***~~[Upon the issuance of a kennel license, the person who keeps or operates the kennel shall be furnished a number of tags prescribed and supplied by the department equal to the number of dogs authorized to be kept in the kennel.~~

~~(4) The licensee of a kennel shall keep a tag attached to a collar on each dog kept by him at all times, and such tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel]~~.

Section 4. KRS 258.185 is amended to read as follows:

Each dog warden shall keep a record of all dog and ***commercial*** kennel licenses issued and shall report to the department monthly his license sales on a form prescribed and supplied by the department. The record maintained shall be a public record.

Section 5. KRS 258.195 is amended to read as follows:

(1) On or before July 1, 1954, the fiscal court of each county shall employ a dog warden. On or before July 1, 1955, the fiscal court of each county shall establish and maintain a dog pound as a means of facilitating and administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and~~[such]~~ other matters that may be incidental to efficient and proper operation of the dog pound plan.

(2)~~[As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.~~

~~(3)]~~ Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.

(3)~~[(4)]~~Cities, counties, urban-county governments, or charter county governments may employ animal control officers for the enforcement of this chapter and local dog control ordinances within their corporate limits. Cities, urban-county governments, or charter county governments may enter into agreements with the counties for the enforcement of the county's ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the officer or warden respective to the agreement.

(4)~~[(5)]~~Dog wardens and animal control officers shall have the authority to issue uniform citations only for the enforcement of the provisions of this chapter or dog control ordinances in their respective jurisdictions.

Section 6. The following KRS section is repealed:

258.175 Dogs to be kept in kennel.

The Committee Substitute No. 1 to **HB 568** is as follows:

HB 568, AN ACT relating to dog license fees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 258.095 is amended to read as follows:

As used in KRS 258.095 to 258.365 and KRS 258.990(3) and (4), unless the context requires otherwise:

(1) "Department" means the Department of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Committee" means the advisory committee created by KRS 258.115;

(4) "Dog" means any member of the canine family, six (6) months of age or over;

(5) "Owner," when applied to the proprietorship of a dog, includes every person having a right of property in the dog and every person who keeps or harbors the dog, or has it in his care, or permits it to remain on or about premises owned or occupied by him;

(6) "Livestock" includes horses, stallions, colts, geldings, mares, sheep, rams, lambs, bulls, bullocks, steers, heifers, cows, calves, mules, jacks, jennets, burros, goats, kids, swine and confined and domesticated hares and rabbits;

(7) "Poultry" includes all domesticated fowl and all game birds which are legally kept in captivity;

(8) "Kennel" means any establishment where dogs are kept for the purpose of breeding, sale, show, or sporting purposes, and which is~~[so]~~ constructed ***to prohibit dogs from straying***~~[that dogs cannot stray therefrom]~~;

(9) "Livestock fund" means the fund created by KRS 258.125 for the purpose of administering its provisions;

(10) "Attack" means a dog's attempt to bite or successful bite of a human being. This definition shall not apply to a dog's attack of a person who has illegally entered or is trespassing on the dog owner's property in violation of KRS 511.060, 511.070, 511.080, or 511.090;

(11) "Vicious dog" means any individual dog declared by a court to be a vicious dog; and

(12) "Animal control officer" means an individual employed by a city, county, urban-county government, or charter county government who enforces the provisions of this chapter and local dog control ordinances.

Section 2. KRS 258.135 is amended to read as follows:

(1) On or before July 1, 1954, and on or before July 1 of each year thereafter, the owner of any dog six (6) months old or over shall apply to the dog warden of the county in which he resides for a license for each dog owned or kept by him. The application shall be accompanied by a license fee of ***five dollars ($5)***~~[one dollar and fifty cents ($1.50)]~~ for each dog, except as provided in KRS 258.500. Any license issued for the year of 1954 before July 1, 1954, shall be effective until July 1, 1955. Dog wardens shall be agents of the Commonwealth in the collection of the license fees~~[provided for herein]~~, unless the department determines, with the approval of the Governor, to issue all licenses either directly or through other agents. For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of ***fifty cents ($0.50)***~~[twenty-five cents ($0.25)]~~ for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be ***distributed as follows:***

(a) The respective county in which the license is sold shall receive two dollars and fifty cents ($2.50) for use in meeting the expenses of animal control in the respective county;

(b) The Animal Control Advisory Board, created by KRS 258.117, shall receive one dollar ($1); and

(c) The livestock fund shall receive one dollar ($1)~~[credited to the livestock fund. If the committee finds it to be in the interest of maximum enforcement of this chapter to permit certain other portions of the license fee to be retained by the respective counties for use in enforcement, the department may allow these portions of the license fee to be so retained by the counties]~~.

(2) Any county may choose to issue additional licenses in conjunction with effective dates of a valid rabies vaccination, provided the dog shall be licensed each fiscal year.

Section 3. KRS 258.165 is amended to read as follows:

(1) Any person who keeps or operates a kennel may, in lieu of the license for each dog required by KRS 258.135, apply to the dog warden for a kennel license entitling him to keep or operate a kennel. ***The***[~~Such~~] application shall be accompanied by a license fee of ***twenty-five dollars ($25)***[~~ten dollars ($10) for each license to keep ten (10) dogs or less and fifteen dollars ($15) for each license to keep more than ten (10) dogs. Such license fees shall be collected, paid to the department, and credited to the livestock fund in the same manner as the regular dog license fees~~]. ***For services rendered in collecting and paying over the fee, dog wardens shall be allowed to retain the sum of fifty cents ($0.50) for each license. The balance of the license fee collected shall be paid to the department on or before the fifteenth day of each next succeeding month and shall be distributed as follows:***

(a) The respective county in which the license is sold shall receive fifteen dollars ($15) for use in meeting the expenses of animal control in the respective county;

(b) The Animal Control Advisory Board, created by KRS 258.117, shall receive four dollars and fifty cents ($4.50); and

(c) The livestock fund shall receive five dollars ($5).

(2) A kennel license shall be issued on a form prescribed and supplied by the department.

(3) Upon the issuance of a kennel license, the person who keeps or operates the kennel shall be furnished a number of tags prescribed and supplied by the department equal to the number of dogs authorized to be kept in the kennel.

(4) The licensee of a kennel shall keep a tag attached to a collar on each dog kept by him at all times, and[~~ such~~] tags may be transferred from one dog to another within the kennel whenever any dog is removed from the kennel.

Section 4. KRS 258.185 is amended to read as follows:

Each dog warden shall keep a record of all dog and kennel licenses issued and shall report to the department monthly his license sales on a form prescribed and supplied by the department. The record maintained shall be a public record.

Section 5. KRS 258.195 is amended to read as follows:

(1) On or before July 1, 1954, the fiscal court of each county shall employ a dog warden. On or before July 1, 1955, the fiscal court of each county shall establish and maintain a dog pound as a means of facilitating and administration of this chapter. In counties of small population, arrangements may be made for the joint establishment and operation of dog pounds by two (2) or more counties on a mutually satisfactory basis. Instead of setting up pounds, one (1) or more counties acting jointly may take advantage of the facilities of suitable pounds already in operation by counties, cities, humane societies, or other organizations or individuals. Fiscal courts may adopt and enforce regulations relative to pound standards, the naming of persons who shall serve as dog wardens, providing for the fixing of salaries of wardens and assistants, and[~~ such~~] other matters that may be incidental to efficient and proper operation of the dog pound plan.

(2)[~~ As a means of providing a portion of the funds for setting up and operating dog pounds, fifty cents ($0.50) out of the one dollar and fifty cents ($1.50) paid for every dog license sold in each county shall be credited by the department to a special enforcement fund to be refunded to the respective counties on a pro-rata basis determined by the licenses sold in each county, and shall be used in meeting expenses of the dog warden and the dog pound plan.~~

~~(3)~~] Dog wardens may be designated as agents of the department for purposes of appraising livestock losses pursuant to KRS 258.275.

(3)[~~(4)~~]Cities, counties, urban-county governments, or charter county governments may employ animal control officers for the enforcement of this chapter and local dog control ordinances within their corporate limits. Cities, urban-county governments, or charter county governments may enter into agreements with the counties for the enforcement of the county's ordinances. The agreement shall include, but shall not necessarily be limited to, setting out the jurisdiction and the duties of the officer or warden respective to the agreement.

(4)[~~(5)~~]Dog wardens and animal control officers shall have the authority to issue uniform citations only for the enforcement of the provisions of this chapter or dog control ordinances in their respective jurisdictions.

HB 665, AN ACT relating to agriculture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 246.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the state Board of Agriculture;

(2) "Commissioner" means the Commissioner of Agriculture;

(3) "Department" means the Department of Agriculture;

(4) "Owner" means any individual, firm, partnership, corporation, organization, association, or any combination thereof who owns a business for the purpose of applying paint to structures of any nature by means of spray equipment of any kind;[

~~and~~]

(5) "Structure" means a building erected as a shelter for human beings, animals or agricultural products, equipment, or supplies*;*

(6) "Agriculture" means the business of raising or producing:

- *(a) Crops, the products of which are used for food, feed, fiber, energy, or pharmaceuticals;*
- *(b) Horticulture products;*
- *(c) Tobacco;*
- *(d) Aquaculture products;*
- *(e) Livestock, poultry, and ratite birds and eggs;*
- *(f) Milk and milk products; and*
- *(g) Eggs and egg products;*

(7) "Horticulture" means the business of raising fruits, nuts, vegetables, flowers, ornamental plants, shrubs, trees, herbs, and the starts or transplants needed to produce these items;

(8) "Aquaculture" means the science, art, and business of producing and raising aquatic organisms under controlled or semicontrolled conditions;

(9) "Livestock" means cattle, sheep, swine, goats, horses, llamas, buffaloes, or any other animals of the bovine, ovine, porcine, caprine, or equine species; and

(10) "Poultry" means chickens, ducks, turkeys, or other domestic fowl being raised or kept on any premises in the Commonwealth for profit.

HB 696, AN ACT relating to marketing of agricultural products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 260.015 is amended to read as follows:

(1) The Commissioner shall establish, if an appropriation is made for the purpose, a logo or labeling statement for use in identifying agricultural products that have been grown, processed, or manufactured in this state. The Commissioner may develop labeling statements that apply to specific marketing or promotional needs. One (1) version of the labeling statement may identify food products certified by the department as organically grown in this state. The agriculture logo or labeling statement may be used on processed or manufactured products produced in this state.

(2) The logo or labeling statement shall not be used without a license from the Commissioner, except that wholesalers and retailers may use the logo or labeling statement for displaying and advertising products that qualify for use of the logo or labeling statement.

(3) The logo or labeling statement shall not supersede or replace any federal or state label or grade statement that is required by law.

(4) A person shall not use the agricultural logo or labeling statement without an annual license from the Commissioner.[~~The Commissioner shall issue a license for a fee of five dollars ($5), and the Commissioner may charge a late fee of ten dollars ($10) for renewal of a license that has expired thirty (30) days after the date of renewal. The logo fund account is established within the department. All license fees, receipts, and penalties collected under the provisions of this section shall be credited to the fund for use in implementing and enforcing this section and to advertise and promote the agriculture logo.~~

~~(5) With the concurrence of a majority of program licensees, a fee equivalent to one-tenth of one percent (.001%) of the wholesale or retail value of all products marketed with the benefit of the logo or labeling statement may be assessed all users of the logo or labeling statement, and the proceeds shall be used by the department exclusively for the purpose of advertising and promoting the logo or labeling statement. The assessed fee shall be payable on a quarterly basis and shall be delinquent if not paid within thirty (30) days following a particular quarter. Chronic delinquency or nonpayment shall be just cause for removal from the program.~~]

(5)[~~(6)~~]In order to accomplish the purposes of this section, the Commissioner may participate jointly with private persons in appropriate logo programs and projects and may enter into contracts necessary to carry out those programs and projects.

(6)[~~(7)~~]If the logo program is undertaken, the Department of Agriculture shall provide assistance to those persons or businesses that wish to use the Kentucky logo.

(7)[~~(8)~~]The Commissioner may promulgate administrative regulations as may be necessary to authorize the use and licensing of the agriculture logo or labeling statement.

(8)[~~(9)~~]It shall be the duty of the department, or upon the request of the Commissioner of Agriculture, of the Attorney General, to bring an action for the recovery of the penalties provided in this section, and to bring an action for an injunction against

any person, corporation, enterprise, or business entity violating or threatening to violate any of the provisions of this section or the administrative regulations promulgated pursuant to this section.

(9)[~~(10)~~] A person who is required to have a license to use the Kentucky agricultural pride logo or labeling statement and uses the logo or labeling statement without a license after being notified by the Commissioner that a license is required shall be liable to a civil penalty not to exceed the sum of one hundred dollars ($100) for the violation, and an additional civil penalty not to exceed one hundred dollars ($100) for each day during which the violation continues. The penalties shall be recoverable in an action brought in the name of the Commonwealth of Kentucky by the department, or upon the department's request, by the Attorney General.

The Committee on Health and Welfare reported **HB 706,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 706, AN ACT relating to early childhood development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

EARLY CHILDHOOD DEVELOPMENT AUTHORITY

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Office of the Governor, Office of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

(a) The executive director of the Governor's Office of Early Childhood Development, who shall serve as chair;

(b) The secretary of the Education, Arts, and Humanities Cabinet;

(c) The secretary of the Cabinet for Health Services;

(d) The secretary of the Cabinet for Families and Children;

(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor; and

(h) Four (4) citizens at large of the Commonwealth who shall be appointed by the Governor.

(3) No later than thirty (30) days after the effective date of this Act, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The Council of Chief Academic Officers, the Kentucky Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;

2. Two (2) years for three (3) of the initial terms;

3. Three (3) years for two (2) of the initial terms; and

4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly that are consistent with improving the health of expectant mothers, infants, and young children;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate recommendations identified by the community early Childhood Councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services, the Cabinet for Families and Children, the Education, Arts, and Humanities Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

The Office of Early Childhood Development in the Office of the Governor shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council;

(3) The Early Childhood Professional Development Council; and

(4) The Kentucky Early Intervention System Interagency Coordinating Council.

PART 2

ADVISORY COUNCILS

2A. COMMUNITY EARLY CHILDHOOD COUNCILS

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The community early childhood council for each service area designated under Section 2 of this Act shall be established by the family resource center and the child-care resource and referral agency in the service area. A council shall be composed of no fewer than seven (7) and no more than twenty-five (25) members. Members may be appointed who represent local agencies and organizations listed below, with no more than one (1) member from each:

(a) Early childhood advocate;

(b) Faith community;

(c) School district;

(d) Family resource center;

(e) Military establishment;

(f) Head Start or Early Head Start;

(g) Child care (profit, nonprofit, or family child care);

(h) Child-care resource and referral agency or child-care subsidy agent;

(i) Child-care consumer or parent;

(j) County cooperative extension service;

(k) Department for public health;

(l) University, college, or technical school;

(m) United Way;

(n) Kentucky Early Intervention System;

(o) Agency administering services to children with disabilities;

(p) Home visitation agency;

(q) Family literacy agency;

(r) Civic organization;

(s) Public library;

(t) Regional training center;

(u) Community action agency;

(v) Government;

(w) Business community;

(x) Home schooling association; or

(y) Health care professional.

(2) Members shall serve on a community early childhood council on a voluntary basis and receive no compensation or expense reimbursement for their service.

(3) (a) Members shall serve for a term of two (2) years and until their successors are appointed, except that for those members initially appointed, the terms shall be as follows:

1. One-third (1/3) of the members shall be appointed for three (3) years;

2. One-third (1/3) shall be appointed for two (2) years; and

3. One-third (1/3) shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments.

(4) A community early childhood council shall collaborate with the District Early Intervention Committee, the Preschool Interagency Planning Council, and other existing interagency groups in the service area.

(5) A community early childhood council may apply for a competitive grant from the authority, consistent with a state plan for grant participation as established by the authority. Grant proposals shall:

(a) Include a needs assessment and budget proposal for the respective service area served by a council;

(b) Not include administrative costs that exceed five percent (5%); and

(c) Contain a signed statement from each member of the council certifying that no program, agency, or individual that may receive part of an award would constitute a conflict of interest under KRS Chapter 11A for the council member. Issues concerning conflicts of interest shall be submitted to the Executive Branch Ethics Commission for resolution.

(6) A community early childhood council shall submit a quarterly report to the authority that details the activities and services of the council, including the progress that the council has made toward addressing the early childhood development goals for its designated service area.

(7) Any records that are in the custody of a community early childhood council, a designated service provider, or a grantee that contain personal and identifying information relating to a family or children receiving services through the council shall be confidential and not subject to public disclosure, except as otherwise authorized by law.

2B. THE EARLY CHILDHOOD BUSINESS COUNCIL

SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Business Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judge/executives, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

1. Five (5) members shall be appointed for three (3) years;

2. Five (5) members shall be appointed for two (2) years; and

3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority.

2C. EARLY CHILDHOOD
PROFESSIONAL DEVELOPMENT COUNCIL

SECTION 6. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Professional Development Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The Early Childhood Professional Development Council shall be composed of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall be appointed for a term of four (4) years and the council shall cease to exist four (4) years after the effective date of this Act, unless reauthorized by the General Assembly. Members of the council shall have experience in early child care and education.

(2) The Early Childhood Professional Development Council, in collaboration with the Council on Postsecondary

Education, shall:

(a) ***Work with existing entities to develop an early child care and education credential system to facilitate the attraction and retention of persons who provide early child-care and education services;***

(b) ***Work to develop a seamless system of professional development beginning with entry level employment in early child care and education and proceeding through a master's degree-level program.***

(3) ***The Early Childhood Professional Development Council shall make reports in accordance with requirements established by the authority.***

(4) ***Members of the Early Childhood Professional Development Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.***

2D. KENTUCKY EARLY INTERVENTION SYSTEM INTERAGENCY COORDINATING COUNCIL

Section 7. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the ***Early Childhood Development Authority***~~[Cabinet for Health Services]~~. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Social Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for ~~[Handicapped]~~Children ***with Special Health Care Needs***.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to ***three (3)***~~[five (5)]~~ years of age;

(f) Identify sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part ***C***~~[H]~~ of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

PART 3

EARLY CHILDHOOD HEALTH INITIATIVE

Section 8. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence to be submitted by all students upon initial admission to the public schools that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed at some time prior to initial admission to the public schools;***

(h) The transportation of children to and from school;

(i)[~~(h)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j)[~~(i)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k)[~~(j)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l)[~~(k)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 9. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and ***Section 11 of this Act***~~[213.046]~~, unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services;

(2)~~["Certificate" means the certificate of birth required by KRS 213.046;~~

~~(3)]~~ "Commission" means the Commission for Children with Special Health Care Needs;

(3)~~[(4)]~~"Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(4)~~[(5)]~~***"Auditory screening report" means a written evaluation of an auditory screening as required under Section 11 of this Act***~~["Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss]~~;

(5)~~[(6)]~~***"Infant at high risk of hearing loss***"~~[High-risk infant"]~~ means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below-normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea;~~[and]~~

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration***; or***

(h) An auditory screening indicating a hearing loss.

Section 10. KRS 211.647 is amended to read as follows:

(1) The commission, on receipt of ***an auditory screening report of an infant from a hospital or alternative birthing center in accordance with Section 11 of this Act shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days***~~[the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high-risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family]~~.

(2) ~~[The commission's process for identifying high-risk infants shall include a timely review of all hearing risk certificates to~~

~~identify the presence of factors determined to occur frequently with hearing loss in newborn infants.]~~The commission shall secure information missing from ***birth*** certificates ***or hospital referral reports*** which is relevant to identifying~~[high-risk]~~ infants ***with a hearing loss***.

(3) ***If the hearing evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:***

(a) Contact the attending physician and parents; and

(b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.

(4) The commission shall forward a report of a hearing evaluation that indicates a hearing loss, with no information that personally identifies the child, to:

(a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and

(b) The Kentucky Birth Surveillance Registry for information purposes.

(5) ~~[The commission shall involve agencies and organizations which provide services to deaf and hard of hearing children, including, but not limited to, the Department of Education, the Cabinet for Health Services, and the Commission on the Deaf and Hard of Hearing, in planning for and implementation of this section.]~~Cumulative demographic data of identified~~[high-risk]~~ infants ***with a hearing loss*** shall be made available to agencies and organizations ***including, but not limited to, the Cabinet for Health Services and the Early Childhood Development Authority,*** requesting the information for planning purposes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure or relicensure, all hospitals offering obstetric services and alternative birthing centers with at least forty (40) births per year shall provide an auditory screening for all infants using one (1) of the methods approved by the Early Childhood Development Authority by administrative regulation promulgated in accordance with KRS Chapter 13A.

(2) An auditory screening report that indicates a finding of potential hearing loss shall be forwarded by the hospital or alternative birthing center within twenty-four (24) hours of receipt to the:

(a) Attending physician;

(b) Parents; and

(c) Commission for Children with Special Health Care Needs for evaluation or referral for further evaluation in accordance with Section 10 of this Act.

(3) An auditory screening report that does not indicate a potential hearing loss shall be forwarded within one (1) week to the Commission for Children with Special Health Care Needs with no information that personally identifies the child.

PART 4

EARLY CHILDHOOD PARENTING SUPPORT

SECTION 12. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Cabinet for Health Services the Health Access Nurturing Development Services (HANDS) program as a voluntary statewide home visitation program, for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. The HANDS program recognizes that parents are the primary decision-makers for their children. The goals of the HANDS program are to:

(a) Facilitate safe and healthy delivery of babies;

(b) Provide information about optimal child growth and human development;

(c) Facilitate the safety and health of homes; and

(d) Encourage greater self-sufficiency of families.

(2) The cabinet shall administer the HANDS program in cooperation with the Cabinet for Families and Children and the local public health departments. The voluntary home visitation program may supplement, but shall not duplicate, any existing program that provides assistance to parents of young children.

PART 5.

ACCESS TO QUALITY CHILD CARE

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting by establishing a scholarship program to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential.

(2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:

(a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or

(b) Involved in providing professional development training for teachers in an early childhood setting.

(3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood Development Authority and the Cabinet for Families and Children, shall promulgate administrative regulations in accordance with KRS Chapter 13A as necessary to implement this section.

SECTION 14. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives of an increased child-care subsidy and a one-time merit achievement award for child-care programs and certified family child-care homes that are tied to a quality rating system for child care as established under Section 15 of this Act.

(2) The monetary incentive program shall be reviewed annually by the authority for the purpose of determining future opportunities to provide incentives.

(3) Participation in the program of monetary incentives and in the quality rating system by child-care programs and certified family child-care homes is voluntary.

(4) The Cabinet for Families and Children shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under Section 13 of this Act.

SECTION 15. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, in consultation with child-care providers, the Cabinet for Families and Children, and the Cabinet for Health Services, develop a voluntary quality-based graduated child-care rating system for day care and certified family child-care programs based on, but not limited to:

(a) Child to caregiver ratios;

(b) Child-care staff training;

(c) Program curriculum; and

(d) Program regulatory compliance.

(2) The Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

(a) The voluntary quality-based graduated child-care rating system for day care and certified family child-care programs developed under subsection (1) of this section;

(b) Agency time frames of reviews for rating;

(c) An appellate process under KRS Chapter 13B; and

(d) The ability of providers to request reevaluation for rating.

SECTION 16. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the Cabinet for Families and Children and Cabinet for Health Services, or their designees, shall collaborate on the expansion of the Healthy Start in Child Care Program. The goals of the Healthy Start in Child Care program are:

(a) To train and educate child-care providers in health and safety;

(b) Provide nutrition consultation to parents;

(c) Increase awareness of methods for the prevention of communicable diseases in child-care settings; and

(d) Provide information to parents of children who attend child care.

(2) The Cabinet for Families and Children shall, to the extent funds are available, establish technical assistance positions dedicated to child care within the Kentucky child-care resource and referral agencies in order to offer technical assistance to child-care providers to upgrade quality in early child-care and education facilities.

SECTION 17. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) If, upon inspection or investigation, the inspector general finds that a child day-care center licensed under Section 18 of this Act has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the facility containing:

(a) A statement of the facts;

(b) A statement of how the administrative regulations, standards, or requirements of the cabinet were violated; and

(c) The time frame within which the violations cited are to be corrected.

Any violation of the administrative regulations, standards, or requirements of the cabinet that poses a threat to the health, safety, or welfare of children in the facility shall be corrected in no event later than five (5) working days from the date of the citation.

(2) A child-care center shall have the right to appeal to the Cabinet for Health Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of violations that pose a threat to the health, safety, or welfare of any child in the facility.

(3) In assessing the civil penalty to be levied against a child-care center under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:

(a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;

(b) The number and type of previous violations of the child day-care center;

(c) The reasonable diligence exercised by the child day-care center and efforts to correct the violation; and

(d) The amount of assessment necessary to assure immediate and continued compliance.

(4) Upon a child-care program's failure to take action to correct a cited deficiency for violation of the administrative regulations, standards, or requirements for operation, or at any time when the operation of a child-care program poses an imminent threat to the health, safety, or welfare of children in the program, and the child-care program continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license under Section 18 of this Act, the inspector general or the inspector general's designee shall take at least one (1) of the following actions against the program:

(a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;

(b) Institute injunctive proceedings in Circuit Court to terminate the operation of the program;

(c) Institute action to discontinue payment of child-care subsidies; or

(d) Suspend or revoke the license or impose other penalties provided by law.

Section 18. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any day-care center or home without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for the day-care center and procedures for enforcement of penalties; provided, however, any administrative regulations promulgated pursuant to KRS Chapter 13A shall prohibit the employment of persons ***in a position that involves supervisory or disciplinary power over a minor or direct contact with a minor, who have been*** convicted of any sexual offense ***or violent offense as defined under Section 24 of this Act or have been found by the Cabinet for Families and Children or a court to have abused or neglected a child***.

(3) If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.

(4) Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall, excepting provisional licenses, be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(5) No day-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(6) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the operator. Identifying information regarding children and their families shall remain confidential.

(7) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the day-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the day-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(8) All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance

of the special fund shall lapse to the general fund at the end of each biennium.

(9) Any advertisement for child-care services shall include the address of where the service is being provided.

(10) All inspections of licensed and unlicensed day-care centers by the Cabinet for Families and Children and the Cabinet for Health Services shall be unannounced.

(11) All employees and owners of a day-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(12) All employees and owners of a day-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(13) The Cabinet for Families and Children shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (11) of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (11) of this section.

(14) Child day-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(15) Directors of child day-care centers shall not have been found by the cabinet or a court to have abused or neglected a child***, and shall meet the following minimum requirements:***

(a) Submit two (2) written character references;

(b) Provide a written statement from a physician that the applicant is in good health;

(c) Submit to a criminal record check. The application shall be denied if the applicant has been found by the Cabinet for Families and Children or a court to have abused or neglected a child or has been convicted of the following crimes or offenses in the Commonwealth, or acts that would have been a crime or offense if committed in the Commonwealth:

1. Fraud as a Class D or higher felony in accordance with KRS 517.060, 517.100, or 517.120;

2. A felony conviction under KRS Chapter 218A;

3. Driving under the influence in accordance with KRS 189A.010(4)(d); or

4. A violent crime or sex crime as defined in Section 24 of this Act.

Section 19. KRS 199.8982 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Cabinet" means the Cabinet for Families and Children;

(b) "Department" means the Department for Social Services; and

(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, ***siblings, stepchildren,*** grandchildren, nieces, nephews, or children in legal custody of the provider.

(2) (a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:

1. Submit two (2) written character references;

2. Provide a written statement from a physician that the applicant is in good health;

3. Submit to a criminal record check***. The application shall be denied if the applicant has been found by the Cabinet for Families and Children or a court to have abused or neglected a child or has been convicted of the following crimes or offenses in the Commonwealth, or acts that would have been a crime or offense if committed in the Commonwealth:***

a. Fraud as a Class D or higher felony in accordance with KRS 517.060, 517.100, or 517.120;

b. A felony conviction under KRS Chapter 218A;

c. ***Driving under the influence in accordance with KRS 189A.010(4)(d); or***

d. ***A violent crime or sex crime as defined in Section 24 of this Act***[~~as provided by KRS 17.165~~];

4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;

5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and

6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:

   a. Basic health, safety, and sanitation;

   b. Recognizing and reporting child abuse; and

   c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.

(e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.

(f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home; provided, however, any administrative regulations promulgated in accordance with KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;

2. Information about available child-care training; and

3. Child-care food sponsoring organizations.

(3) Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(4) The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 20. KRS 199.899 is amended to read as follows:

(1) The Cabinet for Families and Children shall conduct a market-rate survey at least biennially to ***set the minimum***[~~determine the~~] rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2)[~~By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child-care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high-quality child care.~~

~~(3)~~] In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that area development district.

(3) The Cabinet for Families and Children shall evaluate, at least annually, the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care.

Section 21. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including Title XX of the Social Security Act, shall be administered by the Cabinet for Families and Children to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, cooperate with the Cabinet for Health Services to fund ***and*** establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. ***The cabinet shall have the authority to request the transfer of funds to establish these positions.*** Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

(4) Subject to available funds, the ratio of dedicated child-care licensing surveyor positions shall be one (1) surveyor for each fifty (50) child-care facilities in order to allow for the provision of an expedient, constructive, and thorough licensing visit.

(5) The cabinet shall, in cooperation with the Division of Licensing and Regulation, Cabinet for Health Services, provide appropriate specialized training for child-care surveyors.

(6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated child-care providers that receive a public subsidy for child care, and promulgate administrative regulations in accordance with KRS Chapter 13A that establish minimum health and safety standards, limitations on the maximum number of children in care, and training requirements for a child-care provider that receives a child-care subsidy administered by the cabinet regardless of whether the child-care provider is required to be certified under Section 19 of this Act or required to be licensed under Section 18 of this Act.

(b) If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, it may take emergency action to deny a public subsidy for child-care services under KRS 13B.125.

Section 22. KRS 199.8996 is amended to read as follows:

The Cabinet for Families and Children shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

(5) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care with the Early Childhood Development Authority and the Legislative Research Commission.

(6) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities with the Early Childhood Development Authority and the Legislative Research Commission.

Section 23. KRS 199.990 is amended to read as follows:

(1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction

thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(4) Any ***violation of the regulations, standards, or requirements***[~~person who violates any~~] of the provisions of KRS 199.896 ***that pose a threat to the health, safety, or welfare of any child served by the facility shall be subject to a civil penalty of from three hundred dollars ($300) to three thousand dollars ($3,000) for each occurrence. Payment of civil penalties shall not be from child-care subsidy allowance funds. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months***[~~shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court~~].

(5) Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

Section 24. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894***, child-care provider required to be certified under Section 19 of this Act, child-care provider required to be licensed under Section 18 of this Act, or child-care provider that receives a public child-care subsidy administered by the cabinet*** shall employ, in a position which involves supervisory or disciplinary power over a minor, ***or direct contact with a minor,*** any person who is a violent offender or has been convicted of a sex crime ***or has been found by the Cabinet for Families and Children or a court to have abused or neglected a child***[~~classified as a felony. Operators of child-care centers may employ persons convicted of sex crimes classified as a misdemeanor at their discretion~~]. Each child-care center ***or child-care provider*** shall request all conviction information for any applicant for employment from the Justice Cabinet ***or the Administrative Office of the Courts*** prior to employing the applicant.

(5) ***No child-care provider in a position that involves supervisory or disciplinary power over a minor or direct contact with a minor and that is required to be certified under Section 19 of this Act or licensed under Section 18 of this Act, or that receives a public child-care subsidy administered by the cabinet shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Families and Children or a court to have abused or neglected a child.***

(6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(7)[~~(6)~~]Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet ***or the Administrative Office of the Courts***, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(8)[~~(7)~~]The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 25. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five

hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (4) or (5) of KRS 17.165*** may be liable for license ***or certification*** revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (4) or (5) of KRS 17.165*** shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 26. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section.[~~A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647.~~] All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth[~~or the hearing risk certificate~~] is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials and oral, audio, or video materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment-of-paternity forms designated by the Office of Vital Statistics shall be the only documents having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Health Services shall:

(a) Provide to all public and private birthing hospitals in the state written materials and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description and an audio or video description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 27. The following KRS sections are repealed:

199.8984 Child-Care Policy Council.

157.317 Development of statewide Early Childhood Education Program -- Kentucky Early Childhood Advisory Council.

Section 28. As used in subsection (1) of Section 1 of this Act, "early childhood development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session.

Section 29. This Act may be cited as the Early Childhood Development Act.

The Committee Substitute No. 1 to **HB 706** is as follows:

HB 706, AN ACT relating to early childhood development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

EARLY CHILDHOOD DEVELOPMENT AUTHORITY

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Office of the Governor, Office of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

- *(a) The executive director of the Governor's Office of Early Childhood Development, who shall serve as chair;*
- *(b) The secretary of the Education, Arts, and Humanities Cabinet;*
- *(c) The secretary of the Cabinet for Health Services;*
- *(d) The secretary of the Cabinet for Families and Children;*
- *(e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;*
- *(f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;*
- *(g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor;*
- *(h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and*
- *(i) One (1) early childhood development advocate.*

(3) No later than thirty (30) days after the effective date of this Act, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

- *(a) The Kentucky AFL-CIO;*
- *(b) The Kentucky Chamber of Commerce;*
- *(c) The Kentucky League of Cities;*
- *(d) The Kentucky Medical Association;*
- *(e) The Louisville Urban League and Lexington Urban League;*
- *(f) The Kentucky County Judge/Executives Association; and*
- *(g) The Kentucky Council on Postsecondary Education.*

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

  - *1. One (1) year for two (2) of the initial terms;*
  - *2. Two (2) years for three (3) of the initial terms;*
  - *3. Three (3) years for two (2) of the initial terms; and*
  - *4. Four (4) years for four (4) of the initial appointments.*

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services, the Cabinet for Families and Children, the Education, Arts, and Humanities Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

- *(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or*
- *(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority or any programs that had been funded by the authority with expenditures from the early childhood development fund.*

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

The Office of Early Childhood Development in the Office of the Governor shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council;

(3) The Early Childhood Professional Development Council; and

(4) The Kentucky Early Intervention System Interagency Coordinating Council.

PART 2

ADVISORY COUNCILS

2A. COMMUNITY EARLY CHILDHOOD COUNCILS

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The family resource center and the child-care resource and referral agency in the service area shall form community child-care councils and appoint members to the council for each service area designated under Section 2 of this Act. A council shall be composed of no fewer than seven (7) and no more than twenty-seven (27) members. Members may be appointed who represent local agencies and organizations listed below, with no more than one (1) member from each:

- *(a) Early childhood advocate;*
- *(b) Faith community;*
- *(c) School district;*
- *(d) Family resource center;*
- *(e) Military establishment;*
- *(f) Head Start or Early Head Start;*
- *(g) Child-care (profit, nonprofit, or family child-care);*
- *(h) Child-care resource and referral agency or child-care subsidy agent;*
- *(i) Child-care consumer or parent;*
- *(j) County cooperative extension service;*
- *(k) Department for public health;*
- *(l) University, college, or technical school;*
- *(m) United Way;*
- *(n) Kentucky Early Intervention System;*
- *(o) Agency administering services to children with disabilities;*
- *(p) Home visitation agency;*
- *(q) Family literacy agency;*
- *(r) Civic organization;*
- *(s) Public library;*
- *(t) Regional training center;*
- *(u) Community action agency;*
- *(v) Government;*

(w) Business community;

(x) Home schooling association;

(y) Health care professional;

(z) Foster care parent; or

(aa) Adoptive parent.

(2) Members shall serve on a community early childhood council on a voluntary basis and receive no compensation or expense reimbursement for their service.

(3) (a) Members shall serve for a term of two (2) years and until their successors are appointed, except that for those members initially appointed, the terms shall be as follows:

1. One-third (1/3) of the members shall be appointed for three (3) years;

2. One-third (1/3) shall be appointed for two (2) years; and

3. One-third (1/3) shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments.

(4) A community early childhood council shall collaborate with the District Early Intervention Committee, the Preschool Interagency Planning Council, and other existing interagency groups in the service area.

(5) A community early childhood council may apply for a competitive grant from the authority, consistent with a state plan for grant participation as established by the authority. Grant proposals shall:

(a) Include a needs assessment and budget proposal for the respective service area served by a council;

(b) Not include administrative costs that exceed five percent (5%); and

(c) Contain a signed statement from each member of the council certifying that no program, agency, or individual that may receive part of an award would constitute a conflict of interest under KRS Chapter 11A for the council member. Issues concerning conflicts of interest shall be submitted to the Executive Branch Ethics Commission for resolution.

(6) A community early childhood council shall submit a quarterly report to the authority that details the activities and services of the council, including the progress that the council has made toward addressing the early childhood development goals for its designated service area and recommendations that may be included in the state plan.

(7) Any records that are in the custody of a community early childhood council, a designated service provider, or a grantee that contain personal and identifying information relating to a family or children receiving services through the council shall be confidential and not subject to public disclosure, except as otherwise authorized by law.

2B. THE EARLY CHILDHOOD BUSINESS COUNCIL

SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Business Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judge/executives, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

1. Five (5) members shall be appointed for three (3) years;

2. Five (5) members shall be appointed for two (2) years; and

3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

2C. EARLY CHILDHOOD PROFESSIONAL DEVELOPMENT COUNCIL

SECTION 6. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Professional Development Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The Early Childhood Professional Development Council shall be composed of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall be appointed for a term of four (4) years and the council shall cease to exist four (4) years after the effective date of this Act, unless reauthorized by the General Assembly. Members of the council shall have experience in early child care and education.

(2) The Early Childhood Professional Development Council, in collaboration with the Council on Postsecondary Education, shall:

(a) Work with existing entities to develop an early child care and education credential system to facilitate the attraction and retention of persons who provide early child-care and education services;

(b) Work to develop a seamless system of professional development beginning with entry level employment in early child care and education and proceeding through a master's degree-level program.

(3) The Early Childhood Professional Development Council shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

(4) Members of the Early Childhood Professional Development Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

2D. KENTUCKY EARLY INTERVENTION SYSTEM INTERAGENCY COORDINATING COUNCIL

Section 7. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the *Early Childhood Development Authority*~~[Cabinet for Health Services]~~. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve (12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Social Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for ~~[Handicapped]~~Children *with Special Health Care Needs*.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to ***three (3)***[~~five (5)~~] years of age;

(f) Identify sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part *C*[~~H~~] of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

PART 3

EARLY CHILDHOOD HEALTH INITIATIVE

Section 8. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of***

Education. The administrative regulations shall require evidence to be submitted by all students upon initial admission to the public schools that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed at some time prior to initial admission to the public schools;

(h) The transportation of children to and from school;

(i)[~~(h)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j)[~~(i)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k)[~~(j)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l)[~~(k)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 9. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and ***Section 11 of this Act***[~~213.046~~], unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services;

(2)[~~ "Certificate" means the certificate of birth required by KRS 213.046;~~

~~(3)~~] "Commission" means the Commission for Children with Special Health Care Needs;

(3)[~~(4)~~]"Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(4)[~~(5)~~]***"Auditory screening report" means a written evaluation of an auditory screening as required under Section 11 of this Act***[~~"Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss~~];

(5)[~~(6)~~]***"Infant at high risk of hearing loss***"[~~High-risk infant"~~] means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below-normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea;[~~ and~~]

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration***; or***

(h) An auditory screening indicating a hearing loss.

Section 10. KRS 211.647 is amended to read as follows:

(1) The commission, on receipt of ***an auditory screening report of an infant from a hospital or alternative birthing center in accordance with Section 11 of this Act shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days***~~[the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high-risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family]~~.

(2) ~~[The commission's process for identifying high-risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants.]~~The commission shall secure information missing from ***birth*** certificates ***or hospital referral reports*** which is relevant to identifying~~[high-risk]~~ infants ***with a hearing loss***.

(3) ***If the hearing evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:***

(a) Contact the attending physician and parents; and

(b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.

(4) The commission shall forward a report of a hearing evaluation that indicates a hearing loss, with no information that personally identifies the child, to:

(a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and

(b) The Kentucky Birth Surveillance Registry for information purposes.

(5) ~~[The commission shall involve agencies and organizations which provide services to deaf and hard of hearing children, including, but not limited to, the Department of Education, the Cabinet for Health Services, and the Commission on the Deaf and Hard of Hearing, in planning for and implementation of this section.]~~Cumulative demographic data of identified~~[high-risk]~~ infants ***with a hearing loss*** shall be made available to agencies and organizations ***including, but not limited to, the Cabinet for Health Services and the Early Childhood Development Authority,*** requesting the information for planning purposes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure or relicensure, all hospitals offering obstetric services and alternative birthing centers with at least forty (40) births per year shall provide an auditory screening for all infants using one (1) of the methods approved by the Early Childhood Development Authority by administrative regulation promulgated in accordance with KRS Chapter 13A.

(2) An auditory screening report that indicates a finding of potential hearing loss shall be forwarded by the hospital or alternative birthing center within twenty-four (24) hours of receipt to the:

(a) Attending physician;

(b) Parents; and

(c) Commission for Children with Special Health Care Needs for evaluation or referral for further evaluation in accordance with Section 10 of this Act.

(3) An auditory screening report that does not indicate a potential hearing loss shall be forwarded within one (1) week to the Commission for Children with Special Health Care Needs with no information that personally identifies the child.

PART 4

EARLY CHILDHOOD PARENTING SUPPORT

SECTION 12. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Cabinet for Health Services the Health Access Nurturing Development Services (HANDS) program as a voluntary statewide home visitation program, for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. The HANDS program recognizes that parents are the primary decision-makers for their children. The goals of the HANDS program are to:

(a) Facilitate safe and healthy delivery of babies;

(b) Provide information about optimal child growth and human development;

(c) Facilitate the safety and health of homes; and

(d) Encourage greater self-sufficiency of families.

(2) The cabinet shall administer the HANDS program in cooperation with the Cabinet for Families and Children and the local public health departments. The voluntary home visitation program may supplement, but shall not duplicate, any existing program that provides assistance to parents of young children.

PART 5.

ACCESS TO QUALITY CHILD CARE

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting through scholarships, merit awards, and monetary incentives, to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential in an area of study determined by the authority as recommended by the professional development council.

(2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:

(a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or

(b) Involved in providing professional development training for teachers in an early childhood setting.

(3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood Development Authority and the Cabinet for Families and Children, shall promulgate administrative regulations, including a system of monetary incentives for scholarship program participants for completing classes, in accordance with KRS Chapter 13A as necessary to implement this section.

SECTION 14. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under Section 15 of this Act.

(2) The monetary incentive program shall be reviewed annually by the authority for the purpose of determining future opportunities to provide incentives.

(3) Participation in the program of monetary incentives and in the quality rating system by child-care centers and certified family child-care homes is voluntary.

(4) The Cabinet for Families and Children shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under Section 13 of this Act.

SECTION 15. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, in consultation with child-care providers, the Cabinet for Families and Children, the Cabinet for Health Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, develop a voluntary quality-based graduated child-care rating system for licensed child-care and certified family child-care homes based on, but not limited to:

(a) Child to caregiver ratios;

(b) Child-care staff training;

(c) Program curriculum; and

(d) Program regulatory compliance.

(2) The Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

(a) The voluntary quality-based graduated child-care rating system for child-care and certified family child-care homes developed under subsection (1) of this section;

(b) Agency time frames of reviews for rating;

(c) An appellate process under KRS Chapter 13B; and

(d) The ability of providers to request reevaluation for rating.

SECTION 16. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the Cabinet for Families and Children and Cabinet for Health Services, or their designees, shall collaborate on the expansion of the Healthy Start in Child Care Program. The goals of the Healthy Start in Child Care

program are:

(a) To train and educate child-care providers in health and safety;

(b) Provide nutrition consultation to parents;

(c) Increase awareness of methods for the prevention of communicable diseases in child-care settings; and

(d) Provide information to parents of children who attend child care.

(2) The Cabinet for Families and Children shall establish technical assistance positions dedicated to child care within the Kentucky child-care resource and referral agencies in order to offer technical assistance to child-care providers to upgrade quality in early child-care and education facilities.

Section 17. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Families and Children;

(2) "Secretary" means secretary for families and children;

(3) "*Child*[~~Day~~]-care center" means any child-care *center*[~~facility~~] which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. "*Child*[~~Day~~]-care center" shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, "youth development agency" means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled-care arrangements with the parent or guardian of the youth served*;*

(4) "Department" means the Department for Community Based Services; and

(5) "Family child-care home" means a private home that provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

Section 18. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any *child*[~~day~~]-care center[~~ or home~~] without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for *a child*[~~the day~~]-care center*, criteria for the denial of a license if criminal records indicate convictions that may impact the safety and security of children in care,* and procedures for enforcement of penalties[~~; provided, however, any administrative regulations promulgated pursuant to KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense~~].

(3)[~~ If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.~~

~~(4)~~] Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall[~~, excepting provisional licenses,~~] be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(4)[~~(5)~~]No *child*[~~day~~]-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:

(a) A statement of fact;

(b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and

(c) The time frame, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.

(6) The Cabinet for Families and Children, in consultation with the Cabinet for Health Services, Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.

(7) A child-care center shall have the right to appeal to the Cabinet for Health Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.

(8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:

- ***(a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;***
- ***(b) The number and type of previous violations of the child-care center;***
- ***(c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and***
- ***(d) The amount of assessment necessary to assure immediate and continued compliance.***

(9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:

- ***(a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;***
- ***(b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;***
- ***(c) Institute action to discontinue payment of child-care subsidies; or***
- ***(d) Suspend or revoke the license or impose other penalties provided by law.***

(10)[~~(6)~~] Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of ***child***[~~day~~]-care ***center*** license of the operator. Identifying information regarding children and their families shall remain confidential.

(11)[~~(7)~~] The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the ***child***[~~day~~]-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the ***child***[~~day~~]-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(12)[~~(8)~~] All fees collected under the provisions of KRS 199.892 to 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(13)[~~(9)~~] Any advertisement for child-care services shall include the address of where the service is being provided.

(14)[~~(10)~~] All inspections of licensed and unlicensed ***child***[~~day~~]-care centers by the Cabinet for Families and Children and the Cabinet for Health Services shall be unannounced.

(15)[~~(11)~~] All employees and owners of a ***child***[~~day~~]-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

- (a) Basic health, safety, and sanitation;
- (b) Recognizing and reporting child abuse; and
- (c) Developmentally appropriate child-care practice.

(16)[~~(12)~~] All employees and owners of a ***child***[~~day~~]-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(17)[~~(13)~~] The Cabinet for Families and Children shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection *(15)*[~~(11)~~] of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection *(15)*[~~(11)~~] of this section.

(18)[~~(14)~~] Child[~~-day~~]-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(19)[~~(15)~~] Directors ***and employees*** of child[~~-day~~]-care centers ***in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with Section 25 of this Act. The application shall be denied if the applicant has been found by the Cabinet for Families and Children or a***

court to have abused or neglected a child or has been convicted of a violent crime or sex crime as defined in Section 25 of this Act[~~ shall not have been found by the cabinet or a court to have abused or neglected a child~~].

(20) A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

Section 19. KRS 199.8982 is amended to read as follows:

[~~(1) As used in this section, unless the context requires otherwise:~~

~~(a) "Cabinet" means the Cabinet for Families and Children;~~

~~(b) "Department" means the Department for Social Services; and~~

~~(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children, ***siblings, stepchildren,*** grandchildren, nieces, nephews, or children in legal custody of the provider.~~]

(1)[~~(2)~~](a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:

1. Submit two (2) written character references;
2. Provide a written statement from a physician that the applicant is in good health;
3. Submit to a criminal record check ***in accordance with Section 25 of this Act. The application shall be denied if the applicant has been convicted of a violent crime or sex crime as defined in Section 25 of this Act***[~~as provided by KRS 17.165~~];
4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and
6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3) months of application for certification:
   a. Basic health, safety, and sanitation;
   b. Recognizing and reporting child abuse; and
   c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.

(e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.

(f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home ***and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care***[~~; provided, however, any administrative regulations promulgated in accordance with KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense~~]. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;
2. Information about available child-care training; and
3. Child-care food sponsoring organizations.

(2)[~~(3)~~]Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(3)[~~(4)~~]The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 20. KRS 199.899 is amended to read as follows:

(1) The Cabinet for Families and Children shall conduct a market-rate survey at least biennially to ***set the minimum***[~~determine the~~] rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2)[~~ By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child-care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high-quality child care.~~

~~(3)~~] In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that area development district.

(3) The Cabinet for Families and Children shall evaluate, at least annually, the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care.

Section 21. KRS 199.8992 is amended to read as follows:

(1) To the extent possible with available funds, the Cabinet for Families and Children shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

(a) Maintain a uniform database in a format developed by the cabinet of all child-[~~day-~~]care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 in the service area, including information on the availability of care;

(b) Provide consumer education to families seeking child-[~~day-~~]care services;

(c) Provide timely referrals of available child-[~~day-~~]care providers to families seeking child-[~~day-~~]care services;

(d) Recruit child-[~~day-~~]care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

(e) Coordinate, with the cabinet, training for child-[~~day-~~]care providers and provide technical assistance to employers, current and potential child-[~~day-~~]care providers, and the community at large;

(f) Collect and analyze data on the supply of, and demand for, child-[~~day-~~]care in the community;

(g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

(h) Provide written educational materials to parents and child-[~~day-~~]care providers;[~~ and~~]

(i) Not operate a child-[~~day-~~]care center on behalf of an employer or on their own unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to July 14, 1992***; and***

(j) Form community childhood development councils in cooperation with family resource centers and other local organizations or agencies.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

(a) Coordinate existing resource and referral services;

(b) Expand resource and referral services to unserved areas; and

(c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

Section 22. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including Title XX of the Social Security Act, shall be administered by the Cabinet for Families and Children to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, cooperate with the Cabinet for Health Services to fund ***and*** establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. ***The cabinet shall have the authority to request the transfer of funds to establish these positions.*** Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

(4) The targeted ratio of dedicated child-care licensing surveyor positions shall be one (1) surveyor for each fifty (50) child-care facilities in order to allow for the provision of an expedient, constructive, and thorough licensing visit.

(5) The cabinet shall, in cooperation with the Division of Licensing and Regulation, Cabinet for Health Services, provide appropriate specialized training for child-care surveyors.

(6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated child-care providers that receive a public subsidy for child care, and promulgate administrative regulations in accordance with KRS Chapter 13A that establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child-care provider that receives a child-care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care.

(b) If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, it may take emergency action to deny a public subsidy for child-care services under KRS 13B.125.

Section 23. KRS 199.8996 is amended to read as follows:

The Cabinet for Families and Children shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

(5) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care with the Early Childhood Development Authority and the Legislative Research Commission.

(6) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities with the Early Childhood Development Authority and the Legislative Research

Commission.

Section 24. KRS 199.990 is amended to read as follows:

(1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(4) Any ***violation of the regulations, standards, or requirements of the cabinet under***~~[person who violates any of]~~ the provisions of KRS 199.896 ***that poses an immediate threat to the health, safety, or welfare of any child served by the child-care center shall be subject to a civil penalty of no more than one thousand dollars ($1,000) for each occurrence. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months***.

(5) A person who commits a violation of the regulations, standards, or requirements of the cabinet under the provisions of Section 18 of this Act shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

(6)~~[(5)]~~Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

Section 25. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS 510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, ***or direct contact with a minor,*** any person who is a violent offender or has been convicted of a sex crime ~~[classified as a felony. Operators of child-care centers may employ persons convicted of sex crimes classified as a misdemeanor at their discretion]~~. Each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet ***or the Administrative Office of the Courts*** prior to employing the applicant.

(5) ***No child-care provider that is required to be certified under Section 19 of this Act or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Families and Children or a court to have abused or neglected a child.***

(6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(7)~~[(6)]~~Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet ***or the Administrative Office of the Courts***, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(8)~~[(7)]~~The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 26. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information

to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (5) of KRS 17.165*** may be liable for license ***or certification*** revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (5) of KRS 17.165*** shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 27. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section.~~[A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647.]~~ All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth~~[or the hearing risk certificate]~~ is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials and oral, audio, or video materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment-of-paternity forms designated by the Office of Vital Statistics shall be the only documents having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Health Services shall:

(a) Provide to all public and private birthing hospitals in the state written materials and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description and an audio or video description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 28. The following KRS sections are repealed:

199.8984 Child-Care Policy Council.

157.317 Development of statewide Early Childhood Education Program -- Kentucky Early Childhood Advisory Council.

Section 29. As used in subsection (1) of Section 1 of this Act, "early childhood development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session.

Section 30. This Act may be cited as the Early Childhood Development Act.

Calendar

HB 161, HB 254, HB 321, HB 347, HB 506, HB 631, HB 640, HB 641, HB 100, HB 465, HB 596, HB 702, HJR 100, SB 97, HB 481, HB 586, HB 725, HB 618, HB 663, HB 105, HB 414, HB 579, HB 599, and **SB 105** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 5, HB 645, SCR 15, HB 4, HB 44, HB 476, HB 380, HB 511, HB 536, HB 541, HB 544, HB 562, HB 643, HB 664, HB 692, HB 105, HB 465, HB 481, HB 596, HB 631, HJR 100,** and **SB 97** have been posted for passage in the Orders of the Day for February 25, 2000.

Representative Stacy moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Stacy moved the adoption of the following **Legislative Citation No. 24**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the members of the Morehead State University Co-Ed Varsity Cheerleading Squad whose outstanding performance in the 2000 National College Cheerleading Championships has resulted in this talented group of athletes being declared tops in the nation. They have again captured, for the tenth consecutive year, the coveted Division I national title. This notable achievement is the result of the extraordinary effort, perseverance and hard work put forth by the members and coaching staff of this team, who are applauded for the dedication demonstrated in pursuit of this noteworthy accomplishment. The members of this honorable body are delighted to join with Representative John Will Stacy in commending the Morehead State University Co-Ed Varsity Cheerleading Squad for athletic performance that has again brought great honor and esteem to Morehead State University and to the Commonwealth of Kentucky. Done in Frankfort, this twenty-sixth day of January, in the year of our Lord, two thousand.

Legislative Citation No. 24 was adopted without objection.

Senate Message

Announcing passage of **SB 23, SB 76, SB 94, SB 110, SB 150, SB 171, SB 191, SB 207, SB 215, SB 217, SB 232, HB 2, HB 46, HB 70, HB 92, HB 170, HB 192, HB 281, HB 284, HB 355,** and **HB 362**. (Time: 2:40 p.m.)

Message received in regard to **HB 358**: The Senate has passed **HB 358** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Orders of the Day

HB 398, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute No. 1 to **HB 398**. Agreed.

Representative Nunn moved that **HB 398**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See February 24, 2000 roll call on **HB 398** - Appendix.)

HB 398, by way of Committee Substitute, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 398**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 445, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of the Committee Substitute to **HB 445**. Agreed.

Representative Riggs moved that **HB 445**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 24, 2000 roll call on **HB 445** - Appendix.)

HB 445, by way of Committee Substitute, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 445**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 20 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative L. Clark moved that **SCR 20** be adopted.

On the roll call the vote was: **Yeas 99, Nays 0**. (See February 24, 2000 roll call on **SCR 20** - Appendix.)

SCR 20 was adopted.

Representative L. Clark moved that the vote by which **SCR 20** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 647, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 647**. Agreed.

Representative Marzian moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 647**. Agreed.

Representative Marzian moved that **HB 647**, by way of Committee Substitute as amended, be passed.

Representative Wayne moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 647**. Defeated.

Representative Wayne moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 647**. Defeated.

Representative Bather moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 647**. Defeated.

Representative Bather moved the adoption of Floor Amendment No. 8 to the Committee Substitute to **HB 647**. Defeated.

Representative Bather moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 647**. Defeated.

Representative Marzian moved that **HB 647**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 88, Nays 10**. (See February 24, 2000 roll call on **HB 647** - Appendix.)

HB 647, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 647**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SCR 16, HB 2, HB 46, HB 70, HB 92, HB 170, HB 192, HB 281, HB 284, HB 355,** and **HB 362** have been examined and found correctly enrolled. Said Bills and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:35 p.m.)

Orders of the Day (Continued)

HB 329, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lee moved the adoption of the Committee Substitute to **HB 329**. Agreed.

Representative Lee moved that **HB 329**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 24, 2000 roll call on **HB 329** - Appendix.)

HB 329, by way of Committee Substitute, was passed and the title agreed to.

Representative Lee moved that the vote by which **HB 329**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 180, with Committee Substitutes, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Adkins moved the adoption of the Committee Substitute No. 2 to **HB 180**. Agreed.

Representative Adkins moved the adoption of the Committee Amendment No. 1 to the Committee Substitute No. 2 to **HB 180**. Agreed.

Representative Adkins moved the adoption of the Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 180**. Agreed.

Representative Adkins moved that **HB 180**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See February 24, 2000 roll call on **HB 180** - Appendix.)

HB 180, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Adkins moved that the vote by which **HB 180**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 450, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of Floor Amendment No. 2 to **HB 450**.

On the roll call the vote was: **Yeas 31, Nays 60**. (See February 24, 2000 roll call on the adoption of Floor Amendment No. 2 to **HB 450**-Appendix.)

The motion that Floor Amendment No. 2 to **HB 450** be adopted was defeated.

Representative Marzian moved that **HB 450** be passed.

Representative Heleringer moved the adoption of Floor Amendment No. 1 to **HB 450**.

On the roll call the vote was: **Yeas 81, Nays 14**. (See February 24, 2000 roll call on the adoption of Floor Amendment No. 1 to **HB 450**-Appendix.)

The motion that Floor Amendment No. 1 to **HB 450** be adopted was adopted.

Representative Marzian moved that **HB 450**, as amended, be passed.

On the roll call the vote was: **Yeas 71, Nays 24**. (See February 24, 2000 roll call on **HB 450** - Appendix.)

HB 450, as amended, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 450**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **SB 190** be reassigned to the Committee on Economic Development, Tourism, and Labor. Agreed.

Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so by voice vote. Agreed

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., February 25, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 818, by Representative Nesler: AN ACT relating to highways and making an appropriation therefor.

HB 819, by Representative Nunn: AN ACT relating to motor vehicle accident reports.

HB 820, by Representative Nesler: AN ACT relating to standards for manufactured housing.

HB 821, by Representatives L. Clark, Marzian, Jordan, D. Butler, Bather, Jenkins, and Horlander: AN ACT relating to tourism.

HB 822, by Representative Richards: AN ACT relating to taxpayer information.

HB 823, by Representative Richards: AN ACT relating to sales tax.

HB 824, by Representative Richards: AN ACT relating to property valuation administrators.

HB 825, by Representatives Stacy, Adkins, Callahan, Alexander, Palmer, Treesh, Upchurch, Wayne, Webb, Lee, R. Adams, Ford, Cave, Stein, Palumbo, Anderson, McKee, Worthington, Nesler, Vincent, Colter, Siler, T. Turner, and Crenshaw: AN ACT relating to public library services and making an appropriation therefor.

HB 826, by Representatives Gray, Polston, Jenkins, Jordan, Collins, and Hoffman: AN ACT relating to state procurement.

HB 827, by Representatives Crenshaw and Bather: AN ACT relating to members of the Commission on Human Rights.

HB 828, by Representative Jenkins: AN ACT relating to crimes and punishments.

HB 829, by Representative Johns: AN ACT changing the classification of the City of Indian Hills, in Jefferson County.

HB 830, by Representative Stein: AN ACT relating to pretrial diversion programs.

HB 831, by Representative Anderson: AN ACT relating to labor management negotiations.

HB 832, by Representative Geveden: AN ACT relating to crimes and punishments.

HB 833, by Representative Westrom: AN ACT relating to the supervision of adult misdemeanants.

HB 834, by Representative Anderson: AN ACT proposing an amendment to Section 181 of the Constitution of Kentucky relating to local taxation.

HB 835, by Representatives Johns, Marzian, and Burch: AN ACT relating to insurance.

HB 836, by Representatives Anderson, Wayne, Jenkins, Marzian, and Bather: AN ACT relating to compensation of public employees and declaring an emergency.

HB 837, by Representative Ballard: AN ACT relating to the designation of the official state leaf.

HB 838, by Representatives Crenshaw, Wayne, Stein, Riggs, Yonts, Jordan, Bather, Marzian, Jenkins, Westrom, and Burch: AN ACT relating to crimes and punishments.

HB 839, by Representatives Ford, Napier, Collins, D. D. Butler, Childers, J. Adams, Rader, Walton, Scott, Baugh, Crall, Reinhardt, J. Arnold, D. Butler, Tapp, Nesler, C. Belcher, Bratcher, Upchurch, Ausmus, R. Adams, Damron, Worthington, T. Turner, Hoffman, Lee, Haydon, and Treesh: AN ACT relating to the unauthorized practice of law.

HB 840, by Representatives Fischer and Anderson: AN ACT relating to actions challenging the constitutionality of legislative districts.

HB 841, by Representative Fischer: AN ACT relating to campaign finance.

HCR 116, by Representative Nesler: A CONCURRENT RESOLUTION calling for increased efforts to combat illegal immigration.

HCR 117, by Representatives Walton, Kerr, Fischer, Treesh, Crall, Riner, Stewart, Ausmus, Tapp, Ford, Weaver, Cave, Crimm, Vincent, and Cornett: A CONCURRENT RESOLUTION calling upon the United State Congress to condemn the practice of harvesting and selling fetal body parts.

HR 118, by Representatives Marzian, L. Clark, Riner, Horlander, Johns, Jordan, Bather, DeWeese, Jenkins, and Heleringer: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bernard L. "Peck" Hickman.

HCR 119, by Representatives Westrom, Reinhardt, Heleringer, Weaver, Gooch, Crall, Stein, Webb, Bather, Feeley, Crenshaw, Burch, R. Adams, J. Arnold, Gray, Jordan, J. Turner, C. Belcher, Colter, Callahan, L. Clark, Richards, Cherry, Stewart, DeWeese, Ausmus, Bowling, Tapp, Palumbo, Jenkins, Marzian, Johns, Haydon, Buckingham, Alexander, Draud, Damron, A. Arnold, Wilkey, Riner, Riggs, Collins, Hoffman, Wayne, Treesh, Stumbo, Stacy, D. Butler, Branham, and Bratcher: A CONCURRENT RESOLUTION creating a task force to study the impact of the certificate of need on the cost, access, and quality of health care in the Commonwealth.

Report of Committees (Continued)

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 324, HB 564**

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Banking and Insurance: **HB 772, HB 632, HB 757, HB 680**

Labor and Industry: **HB 751**

Local Government: **HB 555, HB 590, HB 744**

Transportation: **HB 118, HB 344, HB 585, HB 691, HB 715, HB 768, SB 19**

Natural Resources and Environment: **HB 805, HB 806**

State Government: **HB 698, HB 733, HB 721, HB 713, HB 712, HB 318, HCR 54, HB 748, HB 737, HJR 86, HB 552, HB 464**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 116**, with Committee Substitute attached thereto, **HB 430**, with Committee Substitute and Committee Amendment attached thereto, **HB 439**, with Committee Substitute attached thereto, and **HB 549**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 116, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.020 is amended to read as follows:

(1) A person is guilty of murder when:

(a) With intent to cause the death of another person, he causes the death of such person or of a third person; except that in any prosecution a person shall not be guilty under this subsection if he acted under the influence of extreme emotional disturbance for which there was a reasonable explanation or excuse, the reasonableness of which is to be determined from the viewpoint of a person in the defendant's situation under the circumstances as the defendant believed them to be. However, nothing contained in this section shall constitute a defense to a prosecution for or preclude a conviction of manslaughter in the first degree or any other crime; or

(b) Including, but not limited to, the operation of a motor vehicle***, or leaving a person with a physical or mental disability which prevents them from taking self-protective actions, or leaving a child under the age of eight (8) years not attended by a person at least sixteen (16) years of age in a motor vehicle,*** under circumstances manifesting extreme indifference to human life, he wantonly engages in conduct which creates a grave risk of death to another person and thereby causes the death of another person.

(2) Murder is a capital offense.

Section 2. KRS 508.010 is amended to read as follows:

(1) A person is guilty of assault in the first degree when:

(a) He intentionally causes serious physical injury to another person by means of a deadly weapon or a dangerous instrument; or

(b) Under circumstances manifesting extreme indifference to the value of human life he wantonly engages in conduct ***including, but not limited to, leaving a person with a physical or mental disability which prevents them from taking self-protective actions, or leaving a child under the age of eight (8) years not attended by a person at least sixteen (16) years of age in a motor vehicle,*** which creates a grave risk of death to another and thereby causes serious physical injury to another person.

(2) Assault in the first degree is a Class B felony.

Section 3. KRS 508.060 is amended to read as follows:

(1) A person is guilty of wanton endangerment in the first degree when, under circumstances manifesting extreme indifference to the value of human life, he wantonly engages in conduct ***including, but not limited to, leaving a person with a physical or mental disability which prevents them from taking self-protective actions, or leaving a child under the age of eight (8) years of age not attended by a person at least sixteen (16) years of age in a motor vehicle*** which creates a substantial danger of death or serious physical injury to another person.

(2) Wanton endangerment in the first degree is a Class D felony.

The Committee Substitute No. 1 to **HB 116** is as follows:

HB 116, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 507.040 is amended to read as follows:

(1) A person is guilty of manslaughter in the second degree when[~~, including, but not limited to, the operation of a motor vehicle,~~] he wantonly causes the death of another person***, including, but not limited to, situations where the death results from the person's:***

(a) Operation of a motor vehicle; or

(b) Leaving a child under the age of eight (8) years in a motor vehicle under circumstances which manifest an extreme indifference to human life and which creates a grave risk of death to the child, thereby causing the death of the child.

(2) Manslaughter in the second degree is a Class C felony.

HB 430, AN ACT relating to judicial circuits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.
(2) Third Judicial Circuit.
(3) Sixth Judicial Circuit.
(4)[~~ Ninth Judicial Circuit.~~
~~(5)~~] Eleventh Judicial Circuit.
(5) Twelfth Judicial Circuit.
(6) Fourteenth Judicial Circuit.
(7) Seventeenth Judicial Circuit.

*(8) **Twenty-first Judicial Circuit.***

(9)[~~(8)~~]Twenty-fourth Judicial Circuit.

(10)[~~(9)~~] Twenty-seventh Judicial Circuit.

(11)[~~(10)~~] Thirty-first Judicial Circuit.

(12)[~~(11)~~] Thirty-second Judicial Circuit.

(13)[~~(12)~~] Thirty-fourth Judicial Circuit.

(14)[~~(13)~~] Forty-sixth Judicial Circuit.

(15)[~~(14)~~] Fifty-fourth Judicial Circuit.

Section 2. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) Eighth Judicial Circuit.

*(2) **Ninth Judicial Circuit.***

(3)[~~(2)~~]Twenty-fifth Judicial Circuit.

(4)[~~(3)~~]Twenty-eighth Judicial Circuit.

(5)[~~(4)~~]Thirty-fifth Judicial Circuit.

(6)[~~(5)~~]Forty-eighth Judicial Circuit.

The Committee Substitute No. 1 to **HB 430** is as follows:

HB 430, AN ACT relating to judicial circuits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 23A.040 is amended to read as follows:

The following judicial circuits are entitled to two (2) judges and shall have two (2) numbered divisions of the Circuit Court:

(1) Second Judicial Circuit.

(2) Third Judicial Circuit.

(3) Sixth Judicial Circuit.

(4)[~~Ninth Judicial Circuit.~~

~~(5)~~] Eleventh Judicial Circuit.

*(5) **Twelfth Judicial Circuit.***

(6) Fourteenth Judicial Circuit.

(7) Seventeenth Judicial Circuit.

*(8) **Twenty-first Judicial Circuit.***

(9)[~~(8)~~]Twenty-fourth Judicial Circuit.

(10)[~~(9)~~] Twenty-seventh Judicial Circuit.

(11)[~~(10)~~] Thirty-first Judicial Circuit.

(12)[~~(11)~~] Thirty-second Judicial Circuit.

(13)[~~(12)~~] Thirty-fourth Judicial Circuit.

(14)[~~(13)~~] Forty-sixth Judicial Circuit.

(15)[~~(14)~~] Fifty-fourth Judicial Circuit.

Section 2. KRS 23A.045 is amended to read as follows:

The following judicial circuits are entitled to three (3) Circuit Judges and shall have three (3) numbered divisions of the Circuit Court:

(1) Eighth Judicial Circuit.

*(2) **Ninth Judicial Circuit.***

(3)[~~(2)~~]Twenty-fifth Judicial Circuit.

(4)[~~(3)~~]Twenty-eighth Judicial Circuit.

(5)[~~(4)~~]Thirty-fifth Judicial Circuit.

(6)[~~(5)~~]Forty-eighth Judicial Circuit.

Section 3. KRS 24A.050 is amended to read as follows:

The following judicial districts are entitled to two (2) District Judges and shall have two (2) numbered divisions of the District Court:

(1) Third Judicial District.
(2) Fourth Judicial District.
(3) Ninth Judicial District.
(4) Eleventh Judicial District.
(5) Twelfth Judicial District.
(6) Thirteenth Judicial District.
(7) Fourteenth Judicial District.
(8) Fifteenth Judicial District.
(9) Eighteenth Judicial District.
(10) Twenty-first Judicial District.
(11) Twenty-fourth Judicial District.
(12) Twenty-seventh Judicial District.
(13) Twenty-eighth Judicial District.
(14) Twenty-ninth Judicial District.
(15) Thirty-first Judicial District.
(16) Thirty-second Judicial District.
(17) Thirty-fourth Judicial District.
(18) Thirty-fifth Judicial District.
(19) Thirty-eighth Judicial District.
(20) Fortieth Judicial District.
(21) Forty-first Judicial District.
(22) Forty-third Judicial District.
(23) Forty-sixth Judicial District.
(24) Forty-eighth Judicial District.
(25) Fiftieth Judicial District.
(26)[~~ Fifty-first Judicial District.~~
~~(27)~~] Fifty-third Judicial District.
(27)[~~(28)~~] Fifty-fourth Judicial District.
(28)[~~(29)~~] Fifty-fifth Judicial District.
(29)[~~(30)~~] Fifty-sixth Judicial District.

Section 4. KRS 24A.060 is amended to read as follows:

The following judicial districts are entitled to three (3) District Judges and shall have three (3) numbered divisions of the District Court:

(1) Second Judicial District.
(2) Sixth Judicial District.
(3) Eighth Judicial District.
(4) Seventeenth Judicial District.
(5) Twenty-fifth Judicial District.
(6) Fifty-first Judicial District.

The Committee Amendment No. 1 Title to **HB 430** is as follows:

To delete the title and insert in lieu thereof "AN ACT relating to judgeships."

HB 439, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) ***A member who retires at a time when combining his total years of service credit and his age equals or exceeds the number seventy-five (75), may elect, within thirty (30) days following retirement, to participate in a Senior Status Program for Special Judges, provided he complies with the provisions of paragraphs (a) and (b) of this subsection. In that event, the member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, plus two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his nonjudicial service credited to his account in accordance with KRS 21.370.***

(a) In the event the retiring member elects to retire under the Senior Status Program for Special Judges under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for a maximum of ninety (90) days per year for a term of five (5) years without compensation other than retirement benefits under this subsection. However, the Chief Justice shall have the discretion to require service of a senior judge in excess of ninety (90) days in any year within the five (5) years of service, and any senior judge so serving shall be credited in a succeeding year or years for the additional days of service exceeding ninety (90) days.

(b) Should any member electing to retire under the Senior Status Program for Special Judges fail when ordered by the Chief Justice to serve the requisite number of days, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided.

(3) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed and payable in accordance with the provisions of subsection (1) ***or (2)*** of this section, on the basis of the number of years of his actual service.

(4)~~[(3)]~~In lieu of the right provided for in subsection ***(3)***~~[(2)]~~ of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection ***(3)***~~[(2)]~~ of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

(5)~~[(4)]~~A member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed and payable in accordance with the provisions of subsection (1) ***or (2)*** of this section on the basis of the number of years of his actual service.

(6)~~[(5)]~~In lieu of the right provided for in subsection ***(3)***~~[(2)]~~ of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection *(3)*[~~(2)~~] of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection *(5)*[~~(4)~~] of this section are lower than twenty-seven (27).

Section 2. KRS 6.520 is amended to read as follows:

(1) A member of the Legislators' Retirement Plan who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to three and fifty one-hundredths percent (3.50%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement, except that in the case of a legislator who retires pursuant to KRS 21.410 or who dies in office, "final compensation" shall be two thousand two hundred ninety-one dollars sixty-six cents ($2,291.66).

(2) A member shall have rights, with respect to retirement before reaching normal retirement date in the Legislators' Retirement Plan, identical in terms with those rights provided in KRS 21.400*(3)*[~~(2)~~] and *(4)*[~~(3)~~] in the Judicial Retirement Plan for members of that plan, except that the reduction in a legislators' service retirement allowance for early retirement shall be at the rate of five percent (5%) of the allowance for each year that retirement precedes the normal retirement date.

(3) Subsections (1) and (2) of this section to the contrary notwithstanding, each legislator in office on July 1, 1982, that is a member of the Legislators' Retirement Plan, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly, on a formula equal to that of a justice or judge of the Court of Justice with an equivalent service entrance date, but in no event less than that specified in subsection (1) of this section, of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of his final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the sixty (60) months of service immediately preceding retirement.

(4) Subsections (1) and (2) of this section to the contrary notwithstanding, a member of the Legislators' Retirement Plan with a service entrance date after July 1, 1982, who retires on or after his normal retirement date, shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five one-hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation. For this purpose, "final compensation" means the average monthly creditable compensation as determined in KRS 61.510(13) of the member for services as a legislator for the sixty (60) months of service immediately preceding retirement.

Section 3. KRS 21.410 is amended to read as follows:

(1) If upon examination of a member under his normal retirement age by one (1) or more qualified physicians employed by the retirement board, it is certified to the satisfaction of the board that such member is so physically or mentally disabled as to be incapacitated for further performance of duty, and that such incapacity is likely to be permanent, the member may retire for disability. A member who so retires shall be entitled to receive commencing immediately a disability retirement allowance, payable monthly during his disability, in an amount equal to one-half (1/2) of the monthly service retirement allowance he would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of actual retirement.

(2) A member need not have completed eight (8) years of service in order to be eligible for benefits under subsection (1) of this section.

(3) The retirement board shall cause a member who has been retired for disability and who is still under his normal retirement age to undergo periodic examination by one (1) or more qualified physicians employed by the board, to determine whether he continues to be incapacitated for service of the character required of a judge or commissioner. If upon any such examination it is certified to the satisfaction of the board that the member is no longer so incapacitated, or if the member refuses to submit to examination, the board shall terminate his disability retirement allowance. He shall then be entitled to such rights, if any, under subsection *(3)*[~~(2)~~] or *(4)*[~~(3)~~] of KRS 21.400 as he would have been entitled to had he voluntarily retired on the date he was retired for disability.

(4) Upon reaching his normal retirement age, a member who has been receiving a disability retirement allowance may apply for and receive, in lieu thereof, the service retirement allowance he would have been entitled to receive at normal retirement age had he voluntarily retired on the date he was retired for disability.

Section 4. KRS 21.420 is amended to read as follows:

(1) After the death of a member who at the time of his death was receiving a service retirement allowance (other than an actuarially reduced allowance under subsection *(4)*[~~(3)~~] of KRS 21.400), or was receiving a disability retirement allowance, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of that he was receiving.

(2) (a) If a member dies before retirement and before reaching normal retirement age, without regard to length of service, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received commencing at his normal retirement date if he had continued in service until that date and had then retired, computed however on the basis of his final compensation at time of death.

(b) If a member dies before retirement and after reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have been entitled to, on the basis of his years of service, had he retired on the date of his death.

(3) If a member dies after retirement and was at the time of his death receiving an actuarially reduced allowance under subsection *(4)*[~~(3)~~] of KRS 21.400, or was not at the time of his death receiving a retirement allowance but had acquired the vested right under subsection *(3)*[~~(2)~~] of KRS 21.400 to have received an allowance upon reaching normal retirement age, his surviving spouse is entitled to receive during his lifetime a monthly allowance equal to one-half (1/2) of the monthly allowance the member would have received when he reached normal retirement age.

(4) A member, or a retiree who has not commenced drawing retirement benefits pursuant to KRS 21.400, who dies without a spouse or eligible children entitled to survivor's benefits, may designate a beneficiary who shall receive the accumulated contributions of the member. Absent a designation by the member or retiree, the accumulated contributions shall be paid to the member's estate.

(5) A member who commences drawing retirement benefits pursuant to KRS 21.400 or 21.410, who dies without a spouse or eligible children entitled to survivor's benefits and before the benefits received by the member equal the personal contributions of the member, may designate a beneficiary who shall receive the balance of the accumulated contributions of the member. Any offset of contributions by reason of benefits received shall be deducted from the contributions first made to the system. Absent a designation by the member, the accumulated contributions shall be paid to the member's estate.

(6) A member may designate a beneficiary who shall receive the balance of the accumulated contributions of the member, in the event survivor's benefits are being paid pursuant to subsection (1), (2), or (3) of this section, and the survivor dies prior to receiving benefits equal to the member's contributions. In this event, the provisions of subsection (5) of this section shall apply as to offset and payment.

(7) A member may, prior to the drawing of benefits, elect in writing to the executive secretary of the Judicial Form Retirement System, to take an optional retirement allowance which shall be actuarially equivalent to the amount of retirement allowance otherwise payable to the member and the member's spouse. If the member dies after retirement, the option chosen shall prevail over the provisions of subsections (1) and (3) of this section. If the member dies prior to retirement, the option chosen shall prevail over the provisions of subsection (2) of this section. The options shall include:

(a) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have the retirement allowance continued after death to the spouse during the lifetime of the spouse.

(b) Survivorship sixty-six and two-thirds percent (66 2/3%). The member may elect to receive a decreased retirement allowance during the member's lifetime and have two-thirds (2/3) of the retirement allowance continue after death to the spouse during the lifetime of the spouse.

If a retiree, living or deceased, chose either of the optional retirement benefit allowances specified in paragraphs (a) or (b) of this subsection from July 15, 1994, to July 15, 1998, the optional allowance shall be adjusted accordingly, and the new benefit shall commence August 1, 1998. Each recipient of benefits from the plan, who retired from July 15, 1994, to July 15, 1998, shall have a one-time opportunity to select an optional retirement allowance. The election by the recipient shall be prior to August 1, 1998, at which time the new benefit shall commence. The option chosen shall prevail, subsections (1), (2), and (3) of this section notwithstanding.

The Committee Substitute No. 1 to **HB 439** is as follows:

HB 439, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 21 IS CREATED TO READ AS FOLLOWS:

(1) As a pilot project to determine the effectiveness of using senior retired judges to combat backlog and delay in Kentucky courts, there is hereby created a "Senior Status Program for Special Judges." The program shall be implemented as follows:

(a) KRS 21.400(1) and any other provision in KRS Chapter 21 to the contrary notwithstanding, a member who retires at a time when combining his total years of judicial service credit and his age equals or exceeds the number seventy-five (75), may elect, within ninety (90) days following retirement, to participate in the "Senior Status Program for Special Judges," if he complies with the provisions of this subsection. In that event, the

member shall be entitled to a service retirement allowance, commencing at the member's normal retirement age, payable monthly during his lifetime in an amount equal to five percent (5%) of his final compensation multiplied by the number of years of his judicial service, not to exceed twenty (20) years of judicial service at the five percent (5%) factor, not to exceed one hundred percent (100%) of final compensation. "Final compensation" is as defined in KRS 21.400. Any nonjudicial time shall be counted as is otherwise provided in KRS Chapter 21; but in no event shall service retirement allowance exceed one hundred percent (100%) of final compensation.

1. In the event the retiring judge elects to retire as a "Senior Status Special Judge" under this subsection, he shall commit to serve, upon appointment by the Chief Justice of the Commonwealth, as special judge for one hundred twenty (120) work days per year for a term of five (5) years without compensation other than the retirement benefits under this subsection. The Senior Status Special Judge may agree to work more than one hundred twenty (120) days in any year within the five (5) years of service; however, the Senior Status Special Judge shall be compensated as otherwise provided by law, in addition to his retirement benefits, for any days served in excess of one hundred twenty (120) in that year. If the Senior Status Special Judge has not served a total of six hundred (600) days within the five (5) year period outlined in this subsection, the Chief Justice shall require the Senior Status Special Judge to serve at no additional compensation to the Senior Status Special Judge, until the six hundred (600) day period is served by the Senior Status Special Judge. The Senior Status Special Judge and the Chief Justice may agree in writing to serve less than the one hundred twenty (120) days in any one or more of the five (5) years; however, any of the days not served in a given year shall be served at the end of the five (5) year period set forth in this subsection.

2. Should any member electing to retire under the Senior Status Program for Special Judges fail, when ordered by the Chief Justice to serve the requisite number of days not to exceed one hundred twenty (120) days a year for the five (5) year period outlined in this subsection, unless otherwise agreed in writing, he shall no longer be eligible for benefits computed under this subsection and shall return to the benefits otherwise provided under this chapter.

3. Subject to the Section 110(5)(b) of the Kentucky Constitution, the Chief Justice shall give due regard, when practical, to the desirability of appointing Senior Status Special Judges to serve within their judicial region as defined by the regional administration charter.

(b) The inviolable contract provisions of Kentucky law, KRS 21.480, shall apply during the period of time that Section 1 of this Act is effective; however, no other provisions of this Act shall be considered subject to an inviolable contract of the Commonwealth.

(c) Nothing contained in this section shall be construed to invalidate provisions in the current law which require a penalty for retiring before the normal retirement age.

(2) The Senior Status Program for Special Judges created by this section shall be open to any member who is a judge in office on the effective date of this Act and who subsequently retires as a Senior Status Special Judge on or before June 30, 2007.

Section 2. KRS 21.400 is amended to read as follows:

(1) A member who retires on or after his normal retirement date shall receive a service retirement allowance, payable monthly during his lifetime, in an amount per month equal to two and seventy-five hundredths percent (2.75%) of his final compensation multiplied by the number of years of his service, but in no event to exceed one hundred percent (100%) of final compensation, except that for any service performed while a member prior to July 1, 1978, any service prior to July 1, 1962, creditable under KRS 21.345, and any service performed in continued membership (or allowable under KRS 21.410 or 21.420) after June 30, 1978, by a person who was a member on that date, the monthly percentage figure shall be five percent (5%) of his final compensation multiplied by the number of years of his service, and except that for any service performed by a member who elected membership at an annual accrual rate of four and fifteen one hundredths percent (4.15%) and for any service performed in continued membership thereafter (or allowable under KRS 21.410 to 21.420), the benefit, payable monthly during his lifetime shall be an amount equal to four and fifteen one-hundredths percent (4.15%) of his final compensation multiplied by the number of years of his service, and except that allowances heretofore granted, and rights related thereto, shall not be affected by the 1978 or 1980 amendments to this section. For this purpose, "final compensation" means the average monthly compensation of the member for the sixty (60) months of service immediately preceding his retirement, including, in the case of a Circuit Judge, compensation received as special commissioner of the former Court of Appeals. If, at the time of retirement or death of a member his total period of service in one or more positions covered by the system has not amounted to sixty (60) months, his "final compensation" shall be computed as if he had served in the first position he occupied under the system for such period of time as to bring his total service (in all positions) to sixty (60) months. If that category of position was not in existence for that period, it shall be treated as though it had been in existence for that period and as if the compensation paid for the presumed period of existence was at the rate provided for the category when it in fact first was created.

(2) A member who retires before his normal retirement date shall be vested with the right to receive, when he reaches his normal retirement age, a service retirement allowance computed ***on the basis of the number of years of his actual service,*** and payable in accordance with***:***

(a) The provisions of subsection (1) of this section***; or***

(b) Section 1 of this Act if the member retires as a Senior Status Special Judge while the pilot program created in Section 1 of this Act is in effect[~~, on the basis of the number of years of his actual service~~].

(3) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached his normal retirement age, reduced at the rate of five percent (5%) for each year by which his actual age at the time the election is made is lower than the normal retirement age.

(4) A member who retires before his normal retirement date when his benefit is based on twenty-seven (27) years or more of service in the Judicial Retirement Plan, or if his judicial service credit, when combined with service he has in, or for which he is receiving benefits from, the Legislators' Retirement Plan, the Kentucky Employees Retirement System, County Employees Retirement System, State Police Retirement System, or the Teachers' Retirement System, is equal to twenty-seven (27) years, shall be vested with the right to receive a service retirement allowance computed ***on the basis of the number of years of his actual service,*** and payable in accordance with***:***

(a) The provisions of subsection (1) of this section***; or***

(b) Section 1 of this Act if the member retires as a Senior Status Special Judge while the pilot program created in Section 1 of this Act is in effect[~~on the basis of the number of years of his actual service~~].

(5) In lieu of the right provided for in subsection (2) of this section, a member who retires before his normal retirement age may elect, at any time before reaching his normal retirement age, to be paid commencing as of the time of the election, a monthly service retirement allowance equal in amount to the monthly allowance that would have become payable under subsection (2) of this section when he reached normal retirement age, reduced at the rate of five percent (5%) for each year by which his years of service or combined service pursuant to subsection (4) of this section are lower than twenty-seven (27).

Section 3. On the effective date of this Act, and annually thereafter the Judicial Retirement System shall provide a written report to the Legislative Research Commission and to the Chief Justice of the Kentucky Supreme Court containing: (1) Number of judges who have retired as Senior Status Special Judges since the effective date of the Act, (2) Compensation and other benefits paid to those Senior Status Special Judges; (3) Number of days each Senior Status Special Judge has served as a special judge; (4) The fiscal impact on the judicial retirement system and the General Fund as a result of the retirement of the Senior Status Special Judges; and (5) Any other relevant information that may be requested.

Section 4. Section 1 of this Act is repealed effective July 1, 2007.

HB 549, AN ACT relating to limitation of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

An action for wrongful discharge of an employee who does not have a written contract of employment shall be commenced within six (6) months of the date of discharge.

The Committee Substitute No. 1 to **HB 549** is as follows:

HB 549, AN ACT relating to limitation of actions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 413 IS CREATED TO READ AS FOLLOWS:

(1) An action for an employer's unlawful discharge of any employee who does not have a written contract of employment, or any common law action for constructive, unlawful discharge of any employee who does not have a written contract of employment, shall be commenced within two (2) years of the date of discharge.

(2) As used in this section, "date of discharge" means the date of termination of the employment relationship between the employer and the discharged employee.

Motions, Petitions, and Communications (Continued)

Representative Vincent moved the adoption of the following **HR 111**:

HR 111, A RESOLUTION adjourning the House of Representatives in honor of Stephanie Jackson.

WHEREAS, Stephanie Jackson, an esteemed resident of Ashland, Boyd County, Kentucky, and a student at Boyd County High School, has achieved national recognition for exemplary volunteer service by receiving a 2000 Prudential Spirit of Community Award; and

WHEREAS, this prestigious award, presented by the Prudential Insurance Company of America in partnership with the National Association of Secondary School Principals, honors young volunteers across America who have demonstrated an extraordinary commitment to serving their communities; and

WHEREAS, Stephanie Jackson earned this award by giving generously of her time and energy to the Kentucky Youth Council on Volunteerism in Service with an essay contest recognizing Earth Day and teaching preschool and elementary age children about the importance of volunteerism; and

WHEREAS, the success of the Commonwealth of Kentucky, the strength of our communities, and the overall vitality of American society depend, in great measure, upon the dedication of young people like Stephanie Jackson who use their considerable talents and resources to serve others;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body congratulates Stephanie Jackson as a recipient of a 2000 Prudential Spirit of Community Award, and we recognize her outstanding record of volunteer service, peer leadership, and community spirit. We extend our wishes to her for success in all future endeavors.

Section 2. When the House of Representatives adjourns this day, it does so in honor of Stephanie Jackson.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Stephanie Jackson, 10518 Laurel Ridge Road, Ashland, Kentucky 41102-9616.

There being no objection **HR 111** was adopted.

Representative Marzian moved the adoption of the following **HR 118**:

HR 118, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Bernard L. "Peck" Hickman.

With deepest respect and admiration, we pay homage and tribute to Bernard L. "Peck" Hickman, and we pause in silent reverence for his soul.

WHEREAS, Bernard L. Hickman was born on October 5, 1911, a native of Greenville, Muhlenberg County, Kentucky, and longtime resident of Jefferson County, and he traversed these earthly bounds on February 19, 2000; and

WHEREAS, Bernard L. Hickman was the devoted husband of the late Alene Hickman who passed away in 1982, and of the late Harriette Heaton who passed away in 1987; the loving father of two daughters, Nancy Kaye Lucia and Beverly Jo Mattingly; and the proud grandfather of four grandchildren and seven great-grandchildren; and

WHEREAS, Bernard L. Hickman was an All-State guard from Central City High School and was a guard at Western Kentucky State College from 1931-35; and he coached eight seasons in high school basketball before accepting the position of head basketball coach at the University of Louisville in 1944; and

WHEREAS, Bernard L. Hickman's outstanding leadership as the University of Louisville Cardinals basketball coach, winning 443 games in 23 seasons, and 20 years as athletic director won the respect and admiration of, and contributed to the development of, many outstanding and responsible young athletes; and

WHEREAS, Bernard L. Hickman brought to his players and to his community the enthusiasm and optimism he displayed throughout his life, leaving a legacy of athletic superiority and academic success in graduating 82 percent of his players, and he was the first basketball coach in Kentucky to break the color barrier in 1962, by recruiting Eddie Whitehead from Dayton, Ohio, and Wade Houston from Alcoa, Tennessee; and

WHEREAS, Bernard L. Hickman was named to the prestigious Helms Athletic Foundation Hall of Fame in 1967 and to the National Association of Collegiate Directors of Athletics Hall in 1981; he was a Mason, a devout member of St. Paul United Methodist Church, and a former member of Rotary International and the Kiwanis Club; and

WHEREAS, the passing of Bernard L. Hickman has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Bernard L. "Peck" Hickman, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Bernard L. "Peck" Hickman.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Ms. Nancy Kaye Lucia, 800 Tyler Street, Ft. Collins, Colorado 80521.

There being no objection **HR 118** was adopted.

Representative Geveden moved that **HB 764** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 625**, by Representative Burch:

On page 2, after line 9, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) Any standardbred track which participates in simulcasting or intertrack wagering on thoroughbred horse races shall be granted each year a share of all funds received that year by the Kentucky Racing Health and Welfare Fund, Inc. in accordance with KRS 230.374 in an amount directly proportionate to the share of the total amount wagered on thoroughbred races at that standardbred track relative to the total amount wagered on thoroughbred horse races for that year in the Commonwealth of Kentucky.

(2) Any standardbred track which receives funding from the Kentucky Racing Health and Welfare Fund, Inc. in accordance with subsection (1) of this section shall use this funding exclusively for the benefit, aid, assistance, and relief of standardbred owners, trainers, jockeys, valets, exercise riders, grooms, stable attendants, pari-mutuel clerks, and other standardbred racing personnel employed in connection with racing, and their spouses and children, who can demonstrate their need for financial assistance connected with death, illness, or off-the-job injury and are not otherwise covered by union health and welfare plans, workers' compensation, Social Security, public welfare, or any type of health, medical, death, or accident insurance.

(3) Nothing in KRS 230.374 shall be construed to prohibit or otherwise preclude the Kentucky Racing Health and Welfare Fund, Inc. from granting funding to a standardbred track in accordance with subsection (1) of this section."

Floor Amendment No. 1 to **SB 39**, by Representative Vincent:

On page 1, line 4, after the word "***prohibition,***" by inserting the following: "***with the exception of a territory that has discontinued prohibition in accordance with KRS 242.1292,***".

Floor Amendment No. 1 to **HB 697**, by Representative Riggs:

On page 10, by deleting lines 12 to 15 in their entirety; and

On page 10, line 16, by deleting "*(7)*" and inserting "*(6)*"; and

On page 10, line 25, by deleting "*(8)*" and inserting "*(7)*".

Floor Amendment No. 3 to **HB 606**, by Representative Haydon:

On page 2, line 17, after "*227.4901,*" by inserting "*234.120,*"; and

On page 2, line 18, after "*227.4901,*" by inserting "*234.120,*"; and

On page 3, line 22, by deleting "***a listing of proofs***" and inserting in lieu thereof "***procedures***"; and

On page 4, line 19, by deleting "***and***", and after "*227.480(2)*" by inserting "***, and 234.120***"; and

On pages 5 and 6, by deleting subsection 5 in its entirety; and

On page 15, after line 3, by inserting the following:

"Section 9. KRS 176.130 is amended to read as follows:

(1) Every person who seeks to procure, bid upon, or offer to bid upon any contract with the department for the construction or

maintenance of any public road or any section thereof, before procuring a proposal form or submitting any bid to obtain such contract, shall procure a certificate of eligibility from the department to bid on such work.

(2) All applications for a certificate of eligibility shall be made to the department in writing, and the department shall act upon the application within thirty (30) days after the application is filed. ***The application shall contain proof of compliance with the provisions of Sections 1 to 7 of this Act and the certificate of eligibility shall be recognized by the Department of Housing, Buildings and Construction as proof of compliance with Sections 1 to 7 of this Act.***

(3) A certificate of eligibility is not necessary where the department purchases equipment, material and supplies directly, except in the case of the purchase of crushed stone in lots of more than one thousand (1,000) tons, or bituminous materials in tank car lots.".

Floor Amendment No. 1 to the Committee Substitute to **HB 296**, by Representative Westrom:

On page 21, line 3, after "***within***" by deleting "***twenty-four (24) hours, exclusive of weekends and holidays***" and inserting in lieu thereof "***the time frame established by Section 5 of this Act***";

On page 26, line 10, after the first occurrence of "***report***", by inserting "***, exclusive of weekends and holidays***".

Floor Amendment No. 2 to **HB 525**, by Representative Westrom:

On page 1, line 7, by deleting "***and***";

On page 1, line 8 after "***(d)***" by inserting

"***Shall sign any decision to deny any health care benefit; and***

(e)".

Floor Amendment No. 3 to **HB 525**, by Representative Treesh:

On page 1, line 5, by inserting "***and***" after the "***;***";

On page 1, by deleting lines 6 and 7 in their entirety;

On page 1, line 8, by deleting "***(d)***" and inserting "***(c)***" in lieu thereof.

Floor Amendment No. 2 to the Committee Substitute to **HB 543**, by Representative Barrows:

On page 5, line 1, after "The authority" by inserting "***, after consultation with the Natural Resources and Environmental Protection Cabinet,***"; and

on line 7, after "***received***" by inserting "***. The Natural Resources and Environmental Protection Cabinet shall review the draft unified plan and provide comment during the public comment period concerning the consistency of the plan with the state requirements pursuant to KRS Chapters 224 and 151***"; and

on line 10, after "authority" by inserting "***and shall be coordinated with the Natural Resources and Environmental Protection Cabinet to assure consistency with KRS Chapters 224 and 151***"

Floor Amendment No. 1 to the Committee Substitute to **HB 631**, by Representative Rasche:

On page 4, line 19, by deleting "***ten***"; by removing the brackets and strikethroughs from "[~~five~~]"; by deleting "***(10%)***"; and removing the brackets and strikethroughs from "[~~(5%)~~]".

Floor Amendment No. 1 to the Committee Substitute to **HB 347**, by Representative Upchurch:

On page 3, between lines 19 and 20 by adding the following:

"***(c) All schools shall be closed on the eleventh day of November in observance of Veterans Day. Districts may;***

1. Designate the day as one (1) of the four (4) holidays permitted under subsection (3)(c) of this section; or

2. Not include the day in the minimum school term specified in subsection (1) of this section.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under rules previously suspended:

HB 202: Representative J. Turner

HB 324: Representative Yonts

HB 329: Representative Hoffman

HB 347: Representatives Branham, Bruce, Webb

HB 366: Representative Ratliff

HB 399: Representative Vincent

HB 439: Representative Ratliff

HB 446: Representative Walton

HB 495: Representatives Allen, C. Belcher, Gray, Walton

HB 627: Representative Branham

HB 633: Representative Weaver

HB 677: Representative Walton

HB 747: Representative Westrom

HB 804: Representatives Stewart, Thomas

HB 825: Representatives C. Belcher, Draud, Haydon

HB 826: Representatives L. Clark, J. Turner

HJR 56: Representative Vincent

Announcements

The following meetings were announced:

Appropriations and Revenue, February 24, 2000, upon adjournment

Tourism, Development, and Energy, February 24, 2000, upon adjournment, Room 125

Judiciary, March 1, 2000, upon adjournment, Room 129

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., February 25, 2000.

The motion that the House adjourn until 10:00 a.m., February 25, 2000, was adopted by voice vote.

FEBRUARY 25, 2000

THIRTY-FIFTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jackson R. Brewer, First United Methodist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Geveden, Sims, and Walton.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 24, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 46, SB 78, SB 137, SB 152, SB 155, SB 186, SB 208, SB 223, SB 229, SB 236, SCR 61, HB 94, HB 186, HB 193, HB 222, HB 372, HB 374,** and **HB 463**. (Time: 10:15 a.m.)

Message in regard to **HB 249**: The Senate has passed **HB 249** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 356**: The Senate has passed **HB 356** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 471**: The Senate has passed **HB 471** by way of Senate Committee Substitute and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Report On Enrolled Bills

HB 2, HB 46, HB 70, HB 92, HB 170, HB 192, HB 281, HB 284, HB 355, and **HB 362** delivered to the Senate and signed by the President. Delivered to the Governor on February 25, 2000, at 9:45 a.m.

Representative Graham moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Graham moved the adoption of the following **Legislative Citation No. 74.**

The House of Representatives of the Commonwealth of Kentucky hereby welcomes and applauds the Frankfort Rotary Club and Rotary International as they join to witness a day of Regular Session of the 2000 Kentucky General Assembly. Further, this extraordinary organization is afforded the deepest gratitude for their immense and valuable work to develop and support the Polioplus Program, a humanitarian effort which, in cooperation with the United Nations World Health Organization and the United Nations Children's Fund, seeks to eliminate the terrible disease, polio. The success of this program is demonstrated through the prevention of over 500,000 cases of polio each year. The members of this august body are pleased to join with Representative Gippy Graham in applauding the extraordinary work of the Rotary Club and in extending to them sincere welcome to the Chambers of the Kentucky House of Representatives. Done in Frankfort, this twenty-fifth day of February, in the year of our Lord, two thousand.

Legislative Citation No. 74 was adopted without objection.

Introduction of Bills and Resolutions

HB 842, by Representative Buckingham: AN ACT relating to reorganization.

HB 843, by Representatives Marzian, Yonts, Horlander, Stein, and Johns: AN ACT relating to mental health and substance abuse, making an appropriation therefor, and declaring an emergency.

HB 844, by Representative Webb: AN ACT relating to the local government parks and recreation facilities fund.

HB 845, by Representatives Webb, Miller, and Bather: AN ACT relating to crimes and punishments.

HB 846, by Representatives Webb, Bather, and P. Clark: AN ACT relating to bounty hunters.

HB 847, by Representative D. Butler: AN ACT relating to truancy.

HB 848, by Representatives Childers, Webb, Collins, and Walton: AN ACT relating to administrative hearings.

HB 849, by Representative Fischer: AN ACT relating to motor fuels.

HB 850, by Representatives Buckingham and Rasche: AN ACT relating to career and technical education.

HB 851, by Representative Callahan: AN ACT relating to property tax.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Appropriations and Revenue: **HB 812, HB 813, HB 823, HB 824**

Banking and Insurance: **HB 835, SB 150, SB 232**

Economic Development: **SB 23**

Education: **HR 115, SB 76**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 808, HB 809, HB 834, HB 841**

Health and Welfare: **HCR 117, HCR 119**

Judiciary: **HB 816, HB 828, HB 830, HB 832, HB 833, HB 838**

Labor and Industry: **HB 815, HB 831**

Licensing and Occupations: **HB 839, SB 215**

Local Government: **HB 810, HB 829, SB 171, SB 217**

State Government: **HB 814, HB 820, HB 822, HB 825, HB 826, HB 827, HB 836, HB 837, HB 840, HCR 116, SB 94, SB 191, SB 207**

Tourism, Development, and Energy: **HB 811, HB 821, SB 110**

Transportation: **HB 817, HB 818, HB 819**

Report of Committees

The Committee on Rules reported that **HB 625** has been posted for passage in the Orders of the Day for February 28, 2000.

The Committee on Tourism, Development, and Energy reported **HB 308, HB 361,** with Committee Amendment attached thereto, and **HB 693** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 308, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.495 is amended to read as follows:

(1) As used in this section, "master meter system" means a pipeline system for distributing gas within a definable area, such as, but not limited to, a mobile home park, housing project, or apartment complex, where the operator purchases metered gas from an outside source for resale through a gas distribution pipeline system. The gas distribution pipeline system supplies the ultimate consumer, who either purchases the gas directly through a meter or by other means, such as through rents.

(2) Notwithstanding any other provision of law, the commission shall have the authority to regulate the safety of natural gas facilities which are:

(a) Owned or operated by any public utility, county, or city, and used to distribute natural gas at retail; or

(b) Comprising a master meter system.

The commission may exercise this authority in conjunction with, and pursuant to, its authority to enforce ***any minimum safety standard adopted by the United States Department of Transportation pursuant to 49 U.S.C. sec. 60101 et. seq., or any amendments thereto***[~~the Natural Gas Pipeline Safety Act of 1968~~], and may promulgate administrative regulations consistent with ***federal pipeline safety laws***[~~that Act~~] in accordance with provisions of KRS Chapter 13A as are necessary to promote pipeline safety in the Commonwealth. In exercising this authority, however, the commission shall consider the impact of any action it takes on small businesses engaged in the installation and servicing of gas lines, master meter systems, or related equipment and shall act so as to assure that no unfair competitive advantage is given to utilities over such small businesses.

HB 361, AN ACT relating to telephone directory advertisements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 367.110 TO 367.300 IS CREATED TO READ AS FOLLOWS:

(1) Every foreign or alien domiciliary placing an advertisement for a business, product, or service in a telephone directory published for distribution to members of the general public shall cause the advertisement to state either:

(a) That the person placing the advertisement does not have a Kentucky domicile; or

(b) The address of the person's fixed, physical place of business nearest to the geographical area where the telephone directory is distributed in Kentucky.

(2) Solely for the purposes of this section, a person shall be considered to have a domicile in Kentucky if the person has a fixed, physical office or place of business in Kentucky and declares that it has a business nexus in Kentucky for Kentucky income tax purposes.

(3) Failure to comply with the provisions of this section shall be deemed an unfair, false, misleading, or deceptive act or practice in the conduct of trade or commerce.

(4) In addition to any other penalties, violation of any of the provisions of this section shall be a Class B misdemeanor.

The Committee Amendment No. 1 to **HB 361** is as follows:

On page 1, between lines 16 and 17, by inserting the following:

"***(4) Nothing in this section creates any duty or imposes any obligation upon any person other than the business that is the subject of the advertisement or listing.***" and

On page 1, line 17, by deleting "***(4)***" and inserting "***(5)***" in lieu thereof.

HB 693, AN ACT relating to tourism signage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 177.076 is amended to read as follows:

As used in KRS 177.076 to 177.079, unless the context requires otherwise:

(1) "Historical site" means a cultural or educational site that is officially listed in the National Register of Historical ***Places***[~~Sites~~];

(2) "Fully controlled access highway" means a limited access highway, an interstate highway, and a parkway;

(3) "Limited supplemental guide sign" means an official highway guide sign that is erected by the Department of Highways to give directions, furnish advance notice, show mileage or exit indicators, and indicate access to historical sites or to scenic, cultural, and recreational tourist areas or attractions and that conforms to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(4) "Post-interchange guide sign" means an official highway sign that may be used in conjunction with a limited supplemental guide sign and lists the name of a tourist area or attraction or an historical site and the distance from an interstate to a tourist area or attraction or an historical site. A post-interchange guide sign shall conform to the design standards and requirements set forth in the Manual on Uniform Traffic Control Devices (MUTCD);

(5) "Rural area" means an area that does not have sufficient population to be designated as an urban area;

(6) "Tourist area or attraction" means a cultural, recreational, or entertainment facility***, family entertainment center,*** or an area of natural phenomenon or scenic beauty that is suited for outdoor recreation[~~ or~~] that receives a major portion of its income or visitors during the normal business season from motorists not residing in the immediate area of the tourist area or attraction. "Tourist area or attraction" does not include any of the following:

(a) Lodging facilities; or

(b) Facilities that are primarily devoted to the retail sale of goods, unless the ***facilities are a family entertainment center or the*** goods are created by individuals at the tourist area or attraction or if the sale of goods is incidental to the tourist area or attraction; ***or***

(c) Recreational facilities that do not serve as a likely destination where individuals who are not residents of the state would remain overnight in commercial lodging at or near the tourism area or attraction;

(7) ***"Family entertainment center" means a facility, other than a stand alone shopping center, that meets all of the following criteria:***

(a) Contains a minimum of fifty thousand (50,000) square feet of building space;

(b) Is located on property encompassing at least five (5) acres adjacent or complementary to a cultural, recreational, or entertainment facility, or natural recreational area;

(c) Provides a variety of entertainment and leisure options;

(d) Contains at least one (1) restaurant and at least two (2) additional venues, including, but not limited to, live entertainment, concert halls, museums, zoos, or other cultural, recreational or leisure activities; and

(e) Is at a location where sixty percent (60%) of the developed property is devoted to entertainment and food options.

(8) "City" means an area with a population of one hundred thousand (100,000) or more designated by the United States Department of Commerce, Bureau of the Census.

Section 2. KRS 177.077 is amended to read as follows:

(1) No later than February 1, 1999, the commissioner of the Department of Highways shall establish standards, procedures, and forms for the making and approval of applications for a limited supplemental guide sign by the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) The criteria for the approval of a limited supplemental guide sign application for an historical site or for a tourist area or attraction shall be based upon average annual attendance and distance from a fully controlled access highway interchange.

(3) At a fully controlled access highway interchange in a rural area, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of ten thousand (10,000) visitors and are located within ***twenty-five (25)***[~~fifty (50)~~] miles of a fully controlled access highway;

(b) Tourist areas and attractions that are located within ***twenty-five (25)***[~~fifty (50)~~] miles of a fully controlled access interchange and have an annual visitation equal to or greater than the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.

(4) At a fully controlled access highway interchange in a city, the standards for approval shall be the lesser of:

(a) Tourist areas and attractions that have an average annual attendance of seventy-five thousand (75,000) visitors and are located within ***twenty-five (25)***[~~fifty (50)~~] miles of a fully controlled access highway interchange;

(b) Tourist areas and attractions that are located within ***twenty-five (25)***[~~fifty (50)~~] miles of a fully controlled access highway interchange and have an annual visitation equal to the average annual daily traffic count of the fully controlled access highway at the interchange from which the attraction is served.

(5) Historical sites that are located in either a rural area or a city shall have an average annual attendance of five thousand (5,000) and shall be located within ***twenty-five (25)***[~~fifty (50)~~] miles from a fully controlled access highway interchange.

(6) The identification of a tourist area or attraction on a specific service sign pursuant to KRS 177.0736 shall not affect its eligibility for a limited supplemental guide sign.

(7) Upon receipt of an application, the commissioner of the Department of Highways shall within thirty (30) days provide written notification to the applicant of any hearings pertaining to the application. The commissioner of the Department of Highways shall make a determination on whether to approve the erection of a limited supplemental guide sign within ninety (90) days after the receipt of an application and shall provide written notification to the applicant of his decision.

(8) Supplemental guide signs, including but not limited to limited supplemental guide signs, erected prior to July 1, 1998, shall not be removed due to the site selection criteria contained in KRS 177.076 to 177.079.

Section 3. KRS 177.078 is amended to read as follows:

(1) An application from an historical site or from a tourist area or attraction for the erection of a limited supplemental guide sign shall be made to the commissioner of the Department of Highways. The application shall include, but not be limited to:

(a) Evidence that demonstrates the average annual attendance;

(b) Evidence that the tourist area or attraction is established as a permanent business; and

(c) Evidence that the tourist area or attraction has all necessary and proper licenses, that normal business hours shall be maintained, that it is open to the traveling public, and that it provides recreational or educational opportunities.

(2) ***An***~~[A nonrefundable]~~ application fee of two hundred dollars ($200) shall be paid to the Department of Highways ***by each applicant***.

(3) Upon approval of the application, the applicant shall pay a fee not to exceed five hundred dollars ($500) per year for a period of ten (10) years or the total cost of the sign and its installation, amortized for a period of ten (10) years, whichever is less, to the Transportation Cabinet.

The Committee on Appropriations and Revenue reported **HB 545** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 545, AN ACT relating to inheritance tax.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 140.160 is amended to read as follows:

(1) The Revenue Cabinet shall have full supervision of the collection of all taxes due under the provisions of this chapter, including the power to institute suit in this and other states. It may employ attorneys and other persons necessary to carry out the full intent and purpose of this chapter. The cabinet shall furnish, upon application, blank forms covering information as may be necessary to determine the amount of tax due the state on the transfer of all property subject to tax.

(2) The cabinet may cause personal representatives or beneficiaries to file all statements required by this chapter with the clerks of the proper courts and with the cabinet, and may require them to furnish any additional information deemed necessary to support the computation of the amount of tax that should be paid by the estate.~~[The personal representative shall in every case, when he files his inventory in the District Court, file a duplicate thereof with the cabinet.]~~ The personal representative***, or the beneficiaries in the absence of a personal representative,*** shall compute the taxes imposed by this chapter on the tax return provided by the cabinet ***when:***

(a) 1. A United States estate tax return is required to be filed under federal law and applicable regulations; and

2. The estate includes property over which Kentucky has jurisdiction for purposes of the taxes imposed by this chapter; or

(b) Any assets from the estate subject to the taxes imposed by this chapter pass to a beneficiary taxable under KRS 140.070.

The tax return***, when required,*** shall be filed with the cabinet within eighteen (18) months after the death of the decedent or at the time payment of the tax is made pursuant to KRS 140.210.

(3) Except as herein provided, no action to enforce the collection of the tax imposed by this chapter shall be commenced more than ten (10) years after the cause of action first accrued. In case the settlement of an estate is delayed because of litigation or other unavoidable cause, the delay shall suspend the limitation, prescribed by this subsection, until the cause of delay is removed. In the case of a fraudulent return or any other fraudulent representation affecting the amount of or the liability for the tax imposed by this chapter notwithstanding any provision of limitation provided elsewhere, the tax due by reason thereof may at any time be assessed and collected by the methods set out in this chapter, including action in a court of competent jurisdiction.

Section 2. KRS 140.190 is amended to read as follows:

(1) All taxes imposed by this chapter shall be computed and paid on the fair cash value of the property transferred at the rates provided. All personal representatives, trustees and beneficiaries shall be personally liable for the taxes until they are paid, but only to the extent that ***property from the estate***~~[same]~~ come into their hands, and in no case shall the personal representative or trustee be liable for a greater sum than passes through his administration.

(2) The heir, devisee or other donee shall be personally liable for the tax on real property, as well as the personal representative or trustee, and if the personal representative or trustee pays the tax he may, unless the tax is made an expense of administration by the will or other instrument, recover the tax from the heir, devisee or other donee of the real property.

~~[(3) The taxes shall be and remain a lien upon the property transferred and upon all property acquired by the personal representative or trustee, until the taxes are paid or a bond given as provided in KRS 140.210. The lien may be enforced as other liens on similar property are enforced. The lien shall not affect any personal property after it has passed to a bona fide purchaser for value, but the owner of securities may not have them transferred to him by the issuing corporation until the permit required by this chapter has been filed. The lien upon any real property may be discharged by the payment of all taxes due and to become due.~~

~~(4) When a conveyance made by a decedent in his lifetime is subject to the tax, and the property thus conveyed is personal property without the state or is removed from the state before the tax is paid, the tax shall become a lien upon all property of the decedent; the personal representative shall collect the taxes due on account of the conveyance, and may be~~

~~authorized to sell any property subject to the lien for the payment thereof, as in other cases.]~~

Section 3. KRS 132.420 is amended to read as follows:

~~[(1)]~~The property valuation administrator shall, subject to the direction, instruction and supervision of the Revenue Cabinet, make the assessment of all property in his county except as otherwise provided, prepare property assessment records, and have~~[such]~~ other powers and duties relating to assessment as may be prescribed by law or by the cabinet.

~~[(2) The cabinet may require the property valuation administrator to be present when safe deposit boxes or similar receptacles are opened under the provisions of KRS 140.250.]~~

Section 4. KRS 289.391 is amended to read as follows:

(1) When a savings account is opened in any association or federal savings and loan association, in the names of two (2) or more persons, whether minor or adult, in ***a***~~[such]~~ form that the moneys in the account are payable to either or the survivor or survivors, then ***the***~~[such]~~ account and all additions~~[thereto]~~ shall be the property of ***the***~~[such]~~ persons as joint tenants. The moneys in ***the***~~[such]~~ account may be paid to or on the order of any one (1) of ***the***~~[such]~~ persons during their lifetimes, or to or on the order of any one (1) of the survivors of them after the death of any one (1) or more of them. The opening of the account in ***this***~~[such]~~ form shall, in the absence of fraud or undue influence, be conclusive evidence in any action or proceeding to which either the association or the surviving party or parties is a party, of the intention of all of the parties to the account to vest title to ***the***~~[such]~~ account and the additions ***to the account in the***~~[hereto in such]~~ survivor or survivors. By written instructions given to the institution by all the parties to the account, the signatures of more than one (1) of ***the***~~[such]~~ persons during their lifetimes or of more than one (1) of the survivors after the death of any one (1) of them may be required on any check, receipt, or withdrawal order, in which case the institution shall pay the moneys in the amount only in accordance with ***the***~~[such]~~ instructions, but no~~[such]~~ instructions shall limit the right of the survivor or survivors to receive the moneys in the account.

(2) Payment of all or any of the moneys in ***the***~~[such]~~ account as provided in subsection (1) shall discharge the institution from liability with respect to the moneys~~[so]~~ paid, prior to receipt by the institution of a written notice from any one (1) of them directing the institution not to permit withdrawals in accordance with the terms of the account or the instructions. After receipt of ***the***~~[such]~~ notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.~~[Subject to the provisions of KRS 140.250, subsection (3),]~~ No liability shall attach to an institution paying any survivor in accordance with the terms of the account or the instructions. After receipt of ***a***~~[such]~~ notice an institution may refuse, without liability, to honor any check, receipt, or withdrawal order on the account pending determination of the rights of the parties.

Section 5. KRS 395.605 is amended to read as follows:

(1) Upon the sworn application of any fiduciary, that the fiduciary is the sole beneficiary of any estate, the court may dispense with the requirements of this chapter regarding settlement of fiduciaries'~~[,]~~ accounts and may dispense with the requirements of a surety for the fiduciary and shall accept from the fiduciary an informal settlement. The informal settlement shall be made, under oath, by the fiduciary and shall state that the estate was solvent; that all legal claims and debts have been paid, or if not paid, the manner in which ***the***~~[said]~~ claims and debts have been provided for; that ***the requirements of the***~~[all]~~ inheritance, estate or similar death ***statutes***~~[taxes]~~ have been ***met and the tax*** paid***, if due and payable***~~[and a duplicate or photocopy of such tax releases shall be attached, if available]~~; that all court costs have been paid; the name of the attorney(s), if any, representing the fiduciary, and the amount of the attorney's fee, and that the beneficiary has received his share. An informal settlement may be filed at any time after expiration of six (6) months from the fiduciary's appointment. Upon the filing of the informal settlement, the court may enter an order discharging the fiduciary, and his surety, if any. When a settlement is effected in the informal manner, no notice to any person shall be required nor shall the court be compelled to inquire into detailed items of income or disbursements.

(2) If a proposed settlement of a fiduciary is accompanied by a verified waiver executed by all of the beneficiaries of an estate, and none of the beneficiaries is under a disability, the court shall accept from the fiduciary an informal settlement which meets the requirements of subsection (1) of this section.~~[Provided, however,]~~ No verified waiver need be obtained from a nonresiduary legatee who has received and receipted for his legacy, the canceled check or signed receipt attached to the proposed settlement being sufficient evidence of satisfaction. The court may require the fiduciary to execute bond with or without surety to insure the application of the estate assets to the debts of the decedent.

(3) In the event that one or more of the beneficiaries of the estate is under a disability, the court may allow the filing of an informal settlement if the court is of the opinion that the best interests of the person under the disability would be served.

Section 6. KRS 140.990 is amended to read as follows:

(1) Any person charged with a duty in this chapter who fails or refuses to perform that duty shall be fined not less than five dollars ($5) nor more than one hundred dollars ($100).

(2) Any person who violates subsection (3) of KRS 140.170 shall be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500), or imprisoned in the county jail for sixty (60) days, or both, and in addition the court shall dismiss him from service as an appraiser.

(3) Any person who violates subsection (4) of KRS 140.170 shall be fined not less than fifty dollars ($50) nor more than five

hundred dollars ($500), or imprisoned in the county jail for not more than twelve (12) months, or both.

~~[(4) Any person who fails to comply with the provisions of KRS 140.250 shall be liable to a penalty of not more than twenty thousand dollars ($20,000), in addition to the liability imposed by subsection (5) of KRS 140.250.]~~

Section 7. The following KRS sections are repealed:

140.064	Exemption of $7,500 received by surviving spouse or surviving children from testator's estate.
140.151	Payment of taxes on farms or other closely held businesses.
140.152	Applicability of KRS 140.070, 140.080 and 140.151.
140.240	Advance payment of tax.
140.250	Regulation of property in safe deposit boxes or held in trust or bailment.
140.260	Payment of proceeds of insurance policy or annuity contract.
140.265	Payment of proceeds of profit sharing, stock bonus, thrift or pension plan.

The Committee on Appropriations and Revenue reported **HB 85** and **HB 220,** with Committee Substitutes and Committee Amendments attached thereto, with the expression of opinion that the same should pass. Ordered referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 220** is as follows:

HB 220, AN ACT relating to sex offenders.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 17.500 is amended to read as follows:

As used in KRS 17.500 to 17.540:

(1) "Cabinet" means the Justice Cabinet.

(2) ***(a) Except as provided in paragraph (b) of this subsection, "criminal offense against a victim who is a minor" means any of the following offenses if the victim is under the age of eighteen (18) at the time of the commission of the offense:***

1. Kidnapping, as set forth in KRS 509.040, except by a parent;

2. Unlawful confinement, as set forth in KRS 509.020, except by a parent;

3. Sex crime;

4. Promoting a sexual performance of a minor, as set forth in KRS 531.320;

5. Promoting prostitution, as set forth in KRS 529.030, 529.040, and 529.050, when the defendant advances or profits from the prostitution of a person under the age of eighteen (18);

6. Use of a minor in a sexual performance, as set forth in KRS 531.310;

7. Sexual abuse, as set forth in KRS 510.120 and 510.130;

8. Any attempt to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph; and

9. Solicitation to commit any of the offenses described in subparagraphs 1. to 7. of this paragraph.

(b) Conduct which is criminal only because of the age of the victim shall not be considered a criminal offense against a victim who is a minor if the perpetrator was under the age of eighteen (18) at the time of the commission of the offense.

(3) "Law enforcement agency" means any lawfully-organized investigative agency, police unit, or police force of federal, state, county, city, metropolitan government, or a combination of these, responsible for the detection of crime and the enforcement of the general criminal federal or state laws.

(4) "Registrant" means:

(a) Any person eighteen (18) years of age or older at the time of the offense or any youthful offender, as defined in KRS 600.020, who has committed:

1. A sex crime; or

2. A criminal offense against a victim who is a minor; or

(b) Any person required to register under subsection (6) or (7) of Section 2 of this Act; or

(c) Any sexually violent predator.

(5)~~[(3)]~~"***Registrant***~~[Sex offender]~~ information" means the name, Social Security number, age, race, sex, date of birth, height, weight, hair and eye color, ***fingerprints, a photograph,*** aliases used, residence,~~[vehicle registration data,]~~ a brief description of the crime or crimes committed, and other information the cabinet determines, by administrative regulation, may be useful in the identification of ***registrants***[~~sex offenders~~].

(6)[~~(4)~~]"Sex crime" means***:***

(a) A felony offense defined in KRS Chapter 510, KRS 530.020, 530.064,[~~ or~~] 531.310***, or 531.320;***[~~,~~]

(b) A felony attempt to commit a ***felony offense specified in paragraph (a) of this subsection; or***

(c) A federal felony offense, a felony offense subject to a court-martial of the United States Armed Forces, or a felony offense from another state or a territory where the felony offense is similar to a felony offense specified in paragraph (a) of this subsection[~~sex crime, or similar offenses in another jurisdiction~~].

(7) "Sexually violent predator" means any person who has been subjected to involuntary civil commitment as a sexually violent predator, or a similar designation, under a state, territory, or federal statutory scheme.

Section 2. KRS 17.510 is amended to read as follows:

(1) The cabinet shall develop and implement a[~~ sex offender~~] registration system ***for registrants*** which includes creating a new computerized information file to be accessed through the Law Information Network of Kentucky.

(2) ***A registrant shall, on or before the date of***[~~Any person eighteen (18) years of age or older at the time of the offense or any youthful offender who has committed or attempted to commit a sex crime shall, within ten (10) days after~~] his ***or her*** release by the court, the parole board,[~~ or~~] the cabinet, ***or any detention facility,*** register with the appropriate local probation and parole office in the county in which he ***or she intends to reside***[~~resides~~]. ***The person in charge of the release shall facilitate the registration process.***

(3) Any person required to register pursuant to subsection (2) of this section shall be informed of the duty to register[~~ under this section~~] by the court at the time of sentencing and by the official in charge of the place of confinement upon release. The court and the official shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register[~~ under this section~~] has been explained to the person. The court and the official in charge of the place of confinement shall require the releasee to complete the acknowledgment form and the court or the official shall retain the original completed form. The official shall then send the form to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601***.

(4) The court or the official shall order the person to***:***

(a) Register with the appropriate local probation and parole office***; and***

(b) Report to a local detention facility within forty-eight (48) hours. The facility shall obtain the person's fingerprints under KRS 441.046 and the person's photograph. The local detention facility shall send the fingerprints and the photograph to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601.

(5) ***(a)*** The appropriate probation and parole office shall send the ***registration form containing the registrant information as well as any special conditions imposed by the court or the Parole Board,***[~~form~~] to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601***.

(b) The Information Services Center, upon request by a state or local law enforcement agency, shall make available to that agency registrant information, including a person's fingerprints and photograph, where available, as well as any special conditions imposed by the court or the Parole Board.

(c) Any employee of the Justice Cabinet who disseminates, or does not disseminate, registrant information in good faith compliance with the requirements of this subsection shall be immune from criminal and civil liability for the dissemination or lack thereof.

(6) Any person who has[~~ pled guilty or~~] been convicted in a court of another state ***or territory,***[~~ of~~] a court of the United States, or a court martial of the United States Armed Forces of [~~the commission or attempt to commit~~] a sex crime ***or criminal offense against a victim who is a minor, or who has been committed as a sexually violent predator under the laws of another state, laws of a territory, or federal laws,*** shall be informed at the time of his ***or her*** relocation to Kentucky of the duty to register under this section***, and to comply with the requirements of subsection (4)(b) of this section,*** by the interstate compact officer of the Department of Corrections or the Department of Juvenile Justice. The officer shall require the person to read and sign any form that may be required by the cabinet, stating that the duty of the person to register under this section has been explained. The officer shall order the person to complete the registration form***, and the officer shall facilitate the registration process***. The officer shall then send the form***, including any special conditions imposed by the court or the Parole Board in the state of conviction*** to the Information Services Center, Kentucky State Police, Frankfort, Kentucky ***40601, and to the appropriate local probation and parole office in the county of the registrant's residence***.

(7) If a person is required to register[~~ as a sex offender~~] under federal law or the laws of another state or territory, or if the person has been convicted of an offense under the laws of another state or territory that would require registration[~~ under this section~~] if committed in this Commonwealth, that person upon changing residence from the other state or territory of the United States to the Commonwealth or upon entering the Commonwealth for employment, to carry on a vocation, or as a student shall comply with the registration requirement of this section ***and the requirements of subsection (4)(b) of***

this section and shall register with the appropriate local probation and parole office in the county of employment, vocation, or schooling. As used in this subsection, "employment" or "carry on a vocation" includes employment that is full-time or part-time for a period exceeding fourteen (14) days or for an aggregate period of time exceeding thirty (30) days during any calendar year, whether financially compensated, volunteered, or for the purpose of government or educational benefit. As used in this subsection, "student" means a person who is enrolled on a full-time or part-time basis, in any public or private educational institution, including any secondary school, trade or professional institution, or institution of higher education.

(8) The registration form shall be a written statement signed by the person which shall include ***registrant***~~[sex offender]~~ information.

(9) For purposes of this section and KRS 17.550 to 17.991, a post office box number shall not be considered an address.

(10) ***(a)*** If the residence address of any registrant changes, ***but the registrant remains in the same county,*** the person shall register, ***on or before the date***~~[within ten (10) days]~~ of the change of address, with the appropriate local probation and parole office in the county ***in which he or she resides***~~[of his new residence]~~.

(b) 1. If the registrant changes his or her residence to a new county, the person shall notify his or her current local probation and parole office of the new residence address on or before the date of the change of address.

2. The registrant shall also register with the appropriate local probation and parole office in the county of his or her new residence no later than five (5) days after the date of the change of address.

(c) 1. As soon as a probation and parole office learns of the person's new address under paragraph (b)1. of this subsection, that probation and parole office shall notify the appropriate local probation and parole office in the county of the new address of the effective date of the new address.

2. As soon as a probation and parole office learns of the person's new address under paragraph (b)2. of this subsection, that office shall forward this information as set forth under subsection (5) of this section~~[The appropriate local probation and parole office shall send this information to the Information Services Center, Kentucky State Police, Frankfort, Kentucky]~~.

(11) Any person required to register under this section who violates any of the provisions of this section is guilty of a Class ***D felony***~~[A misdemeanor]~~.

(12) Any person required to register under this section who knowingly provides false, misleading, or incomplete information is guilty of a Class ***D felony***~~[A misdemeanor]~~.

(13) ***(a)*** The ***Justice Cabinet shall verify the addresses of individuals required to register under this section. Verification shall occur at least once every ninety (90) days for a person required to register under subsection (2) of Section 3 of this Act and at least once every calendar year for a person required to register under subsection (3) of Section 3 of this Act. If the Justice Cabinet determines that a person has moved without providing his or her new address to the appropriate local probation and parole office or offices as required under paragraphs (a) and (b) of subsection (10) of this section, the Justice Cabinet shall notify the appropriate local probation and parole office of the new address. The office shall then forward this information as set forth under subsection (5) of this section. The Justice Cabinet shall also notify the appropriate court, Parole Board, and appropriate corrections agency.***

(b) When the appropriate court, Parole Board, or appropriate corrections agency receives notice from the Justice Cabinet, or any other source, that a person has failed to comply with any of the registration requirements under this section, then the court, Parole Board, or corrections agency:

1. Shall consider revocation of the parole, probation, or conditional discharge of any person released under its authority; and

2. Shall notify the appropriate county attorney for prosecution~~[appropriate court, parole authority, or corrections agency shall be immediately notified to consider revocation of the parole, probation, or conditional discharge of any person released under its authority who has failed to register within the prescribed time period as required by this section.~~

~~(14) The statement required by subsection (6) of this section shall not be open to inspection by the public and may only be accessible to law enforcement agencies.~~

~~(15) Any person who disseminates, receives, or otherwise uses or attempts to use information in the registry database, knowing the dissemination, receipt, or use is for a purpose other than authorized by law, shall be guilty of a Class A misdemeanor]~~.

Section 3. KRS 17.520 is amended to read as follows:

(1) ***A registrant, upon his or her release by the court, the Parole Board, the cabinet, or any detention facility, shall be required to register for a period of time under this section.***

(2) (a) Lifetime registration is required for:

1. Any person who has been convicted of kidnapping, as set forth in KRS 509.040, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;

2. Any person who has been convicted of unlawful confinement, as set forth in KRS 509.020, when the victim is under the age of eighteen (18) at the time of the commission of the offense, except when the offense is committed by a parent;

3. Any person convicted of a sex crime:

  a. Who has one (1) or more prior convictions of a criminal offense against a victim who is a minor; or

  b. Who has one (1) or more prior sex crime convictions;

4. Any person who has been convicted of two (2) or more criminal offenses against a victim who is a minor;

5. Any person who has been convicted of:

  a. Rape in the first degree under KRS 510.040; or

  b. Sodomy in the first degree under KRS 510.070; and

6. Any sexually violent predator.

(3) All other registrants are required to register for ten (10) years following discharge from confinement or ten (10) years following the maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.

(4) If a person required to register under this section is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the reincarceration.

(5) An offender who has pled guilty or been convicted in a court of another state or territory, in a court of the United States, or in a court-martial of the United States Armed Forces who is required to register in Kentucky shall be subject to registration in Kentucky based on the conviction in the foreign jurisdiction. The Justice Cabinet shall promulgate administrative regulations to carry out the provisions of this subsection.

(6) The court shall designate the registration period as mandated by this section in its judgment and shall cause a copy of its judgment to be mailed to the Information Services Center, Kentucky State Police, Frankfort, Kentucky 40601~~[Persons classified as high risk sex offenders as provided by subsection (3) of KRS 17.550 shall remain registered for the lifetime of the offender, unless redesignated pursuant to KRS 17.578.~~

~~(2) Persons classified as low or moderate risk sex offenders shall remain registered for a period of ten (10) years following their discharge from confinement or ten (10) years following their maximum discharge date on probation, shock probation, conditional discharge, parole, or other form of early release, whichever period is greater.~~

~~(3) If a sex offender is reincarcerated for another offense or as the result of having violated the terms of probation, parole, or conditional discharge, the registration requirements are tolled during the subsequent incarceration~~].

Section 4. KRS 17.550 is amended to read as follows:

As used in KRS 17.550 to 17.991, the following definitions shall apply:

(1) "The board" means the Sex Offender Risk Assessment Advisory Board created under KRS 17.554;

(2) "Sex offender" means a person who has been convicted of a sex crime as defined in KRS 17.500~~[who suffers from a mental or behavioral abnormality or personality disorder characterized by a pattern or repetitive, compulsive behavior that makes the offender a threat to public safety~~];

(3)~~["High risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a high risk of recommitting a sex crime. This term means the same as a sexually violent predator as defined by 42 U.S.C. sec. 14071. A person determined to be a sexually violent predator in a federal jurisdiction or in another state will be classified as a high risk sex offender for the purpose of this section;~~

~~(4) "Moderate risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Advisory Board that have been demonstrated to correlate with a moderate risk of recommitting a sex crime;~~

~~(5) "Low risk sex offender" means a sex offender who meets the criteria established by the Sex Offender Risk Assessment Advisory Board that have been demonstrated to correlate with a low risk of recommitting a sex crime;~~

~~(6) "Mental or behavioral abnormality" means a congenital or acquired condition that affects the emotional or volitional capacity of a person in a manner that predisposes that individual to the commission of a sex crime;~~

~~(7) "Personality disorder" means a condition where a person exhibits personality traits which are inflexible and maladaptive and cause either significant functional impairment or subjective distress;~~

~~(8)~~] "***Approved***[~~Certified~~] provider" means a mental health professional ***licensed or*** certified ***in Kentucky whose scope of practice includes providing mental health treatment services and who is approved*** by the Sex Offender Risk Assessment Advisory Board***, under administrative regulations promulgated by the board,*** to ***provide comprehensive sex offender presentence evaluations or treatment to adults and youthful offenders, as defined in KRS 600.020***[~~conduct sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessment pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045~~]; and

(4)[~~(9)~~]"Victim" means victim as defined by KRS 421.500.

SECTION 5. A NEW SECTION OF KRS 17.550 TO 17.991 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky State Police shall establish a website available to the public. The website shall display:

- ***(a) The registrant information, except for information that identifies a victim, fingerprints, and Social Security numbers, obtained by the Information Services Center, Kentucky State Police, under Section 2 of this Act; and***
- ***(b) The sex offender information, except for information that identifies a victim, Social Security numbers, and vehicle registration data, obtained by the Information Services Center, Kentucky State Police, under KRS 17.510 prior to the effective date of this Act.***

The website shall be updated every day except for Saturdays, Sundays, and state holidays.

(2) The information pertaining to an individual shall be maintained on the website so long as that individual is registered in accordance with KRS 17.500 to 17.540.

(3) The following language shall be prominently displayed on the website: "UNDER KRS 525.070 AND 525.080, USE OF INFORMATION OBTAINED FROM THIS WEBSITE TO HARASS A PERSON IDENTIFIED ON THIS WEBSITE IS A CRIMINAL OFFENSE PUNISHABLE BY UP TO NINETY (90) DAYS IN THE COUNTY JAIL. MORE SEVERE CRIMINAL PENALTIES APPLY FOR MORE SEVERE CRIMES COMMITTED AGAINST A PERSON IDENTIFIED ON THIS WEBSITE."

(4) (a) Any Kentucky State Police employee who disseminates, or does not disseminate, registrant information or sex offender information in good faith compliance with the requirements of this section shall be immune from criminal and civil liability for the dissemination or lack thereof.

- ***(b) Any person, including an employee of a sheriff's office, acting in good faith in disseminating, or not disseminating, information previously disseminated by the Kentucky State Police shall be immune from criminal and civil liability for the dissemination or lack thereof.***

(5) The Justice Cabinet shall establish a toll-free telephone number for a person to call to learn the identity of the website created in this section and the location of public access to the website in the county where the person resides.

Section 6. KRS 17.552 is amended to read as follows:

No person shall conduct ***comprehensive sex offender presentence evaluations or treatment***[~~ sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045,~~] without first obtaining ***approval***[~~a certification~~] from the Sex Offender Risk Assessment Advisory Board.

Section 7. KRS 17.554 is amended to read as follows:

(1) A Sex Offender Risk Assessment Advisory Board is hereby created. The board shall ***approve***[~~certify~~] providers who shall conduct ***comprehensive sex***[~~ sexual~~] offender ***presentence evaluations and treatment***[~~risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045~~].

(2) The board shall develop a ***comprehensive sex offender presentence evaluation***[~~risk assessment procedure~~] that shall be used by ***approved***[~~certified~~] providers in assessing the risk of recommitting a sex crime by a sex offender***,***[~~ and~~] the threat posed to public safety***, amenability to sex offender treatment, and the nature of the required sex offender treatment***. The ***evaluation***[~~procedure~~] shall be based upon, but not limited to the following factors:

- (a) Criminal history;
- (b) Nature of the offense;
- (c) Conditions of release that minimize risk;
- (d) Physical conditions that minimize risk;
- (e) Psychological or psychiatric profiles;
- (f) Recent behavior that indicates an increased risk of recommitting a sex crime;
- (g) Recent threats or gestures against persons or expressions of an intent to commit additional offenses; and
- (h) Review of the victim impact statement.

Section 8. KRS 17.558 is amended to read as follows:

(1) The board may issue, refuse to issue, reissue, or renew a provider ***approval***[~~certificate~~], or may probate, suspend, or revoke the ***approval***[~~certificate~~] of a provider[~~ who conducts sexual offender assessments~~].

(2) The board shall revoke the ***approval***[~~certificate~~] of a provider[~~ who conducts sexual offender assessments~~] while his ***or her approval***[~~certification~~] is suspended.

Section 9. KRS 17.560 is amended to read as follows:

(1) Prior to the refusal to issue, renew, probate, suspend, or revoke the ***approval***[~~certificate~~] of a provider, the board shall conduct a hearing in accordance with the provisions of this chapter and KRS Chapter 13B.

(a) The hearing may be conducted by a hearing officer;

(b) The hearing officer may only issue a recommended order, and the recommended order shall be subject to review by a majority of the full board, which shall issue a final order.

(2) The board may proceed against ***an approved***[~~a certified~~] provider on its own initiative, on the basis of either information contained in its own records, or information obtained through its informal investigation.

(3) If a formal complaint verified by affidavit is filed with the board by a responsible citizen or organization containing allegations that if true would warrant action, the board may proceed against the ***approved***[~~certified~~] provider.

(4) Any final order of the board may be appealed to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 10. KRS 17.564 is amended to read as follows:

(1) The board may promulgate all reasonable administrative regulations not inconsistent with this chapter that are necessary to carry into effect the purposes of KRS 17.550 to 17.991.

(2) The board may promulgate administrative regulations requiring mandatory continuing education for ***approved***[~~certified~~] providers[~~ to continue conducting sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045,~~] as a condition for obtaining their renewal ***approvals***[~~certificates~~].

Section 11. KRS 17.566 is amended to read as follows:

Only persons ***approved***[~~certified~~] under KRS 17.550 to 17.991 may be known as ***approved***[~~certified~~] providers in the Commonwealth of Kentucky, or use any words or letters or assume any titles or description tending to convey the impression that they are ***approved***[~~certified~~] providers[~~ who conduct sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, and 532.045~~].

Section 12. KRS 17.574 is amended to read as follows:

(1) Any statutes to the contrary notwithstanding, all state or local detention or correctional facilities, hospitals, or institutions shall forward all relevant information pertaining to a sex offender to be discharged, paroled, or released to the ***approved***[~~certified~~] provider for review prior to the release or discharge for consideration in making recommendations to the sentencing court. The relevant information shall include but is not limited to:

(a) The institutional record;

(b) The medical record including all psychological records; and

(c) The treatment record.

(2) All confidential records provided pursuant to this section shall remain confidential, unless otherwise ordered by a court or by another person duly authorized to release the information.

Section 13. KRS 17.576 is amended to read as follows:

Communications made in the course of ***comprehensive sex offender presentence evaluations or treatment***[~~ sexual offender risk assessments pursuant to KRS 17.550 to 17.991, or presentence assessments pursuant to KRS 532.050, or assessments related to probation or conditional discharge pursuant to KRS 439.265, 439.267, or 532.045~~] to the ***approved***[~~certified~~] provider and any employee of the ***approved***[~~certified~~] provider who is assigned to assist in the assessments shall be privileged from disclosure in any civil or criminal proceeding, ***other than to determine sentence,*** unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The sexual offender shall be informed in writing of the limits of the privilege created in this section.

Section 14. KRS 17.578 is amended to read as follows:

[~~(1)~~]A person ***required to register under the provisions of Sections 2 and 3 of this Act shall be relieved of any further duty to register only upon reversal of the underlying conviction or upon a pardon***[~~designated a "high risk sex offender" and who is required to register for his lifetime pursuant to the provisions of this chapter may be relieved of any further duty to register upon the grant of a petition for relief by the sentencing court entered no earlier than ten (10) years after the date of discharge from probation, parole, or release from incarceration, whichever is most recent. If the petition is denied, the person may petition for relief from the high risk designation every five (5) years thereafter.~~

~~(2) Upon receipt of the petition for relief, the sentencing court shall request an updated assessment to a certified provider.~~

~~(3) The sentencing court shall conduct a second hearing as provided in KRS 17.570~~].

SECTION 15. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

No registrant, as defined in Section 1 of this Act, who is placed on probation, parole, or any form of supervised release, shall reside within one thousand (1,000) feet of a high school, middle school, elementary school, preschool, or licensed day care facility. The measurement shall be taken in a straight line from the nearest wall of the school to the nearest wall of the registrant's place of residence.

SECTION 16. A NEW SECTION OF KRS CHAPTER 17 IS CREATED TO READ AS FOLLOWS:

The following shall be immune from suit for good faith conduct under KRS 17.500 to 17.540 and KRS 17.550 to 17.991:

(1) Law enforcement agencies including the Justice Cabinet;

(2) Independent contractors acting under the direction of law enforcement agencies;

(3) State and county officials;

(4) Approved providers, as defined under Section 4 of this Act; and

(5) Employees of any of the agencies, entities, and persons identified in subsections (1), (2), (3), and (4) of this section.

Section 17. KRS 197.410 is amended to read as follows:

(1) A person is considered to be a "sexual offender" as used in this chapter when he *or she has been adjudicated guilty of a sex crime, as defined in Section 1 of this Act, or any similar offense in another jurisdiction*[~~:~~

~~(a) Has been adjudicated guilty of any felony described in KRS Chapter 510; or~~

~~(b) Has been adjudicated guilty of any other felony committed in conjunction with a misdemeanor described in KRS Chapter 510; or~~

~~(c) Has been adjudicated guilty of any felony under KRS 506.010 when the crime attempted is a felony or misdemeanor described in KRS Chapter 510; or~~

~~(d) Has been adjudicated guilty of a felony offense under KRS 530.020; or~~

~~(e) Has been adjudicated guilty of a felony offense relating to sexual activity under KRS 530.064; or~~

~~(f) Has been adjudicated guilty of a felony offense under KRS 531.310~~].

(2) A sexual offender becomes an "eligible sexual offender" when the sentencing court or department officials, or both, determine that the offender:

(a) Has demonstrated evidence of a mental, emotional, or behavioral disorder, but not active psychosis or mental retardation; and

(b) Is likely to benefit from the program.

(3) "Department" is the Department of Corrections.

Section 18. KRS 197.440 is amended to read as follows:

Communications made in the application for or in the course of a sexual offender's diagnosis and treatment in the program between a sexual offender or member of the offender's family and any employee of the department who is assigned to work in the program, *or approved provider, as defined in Section 4 of this Act,* shall be privileged from disclosure in any civil or criminal proceeding, *other than proceedings to determine the sentence,* unless the offender consents in writing to the disclosure or the communication is related to an ongoing criminal investigation. The privilege created by this section shall not extend to disclosures made for the purpose of determining whether the offender should continue to participate in the program. The offender shall be informed in writing of the limits of the privilege created in this section.

Section 19. KRS 439.265 is amended to read as follows:

(1) Subject to the provisions of KRS Chapter 439 and Chapters 500 to 534, any Circuit Court may, upon motion of the defendant made not earlier than thirty (30) days nor later than one hundred eighty (180) days after the defendant has been incarcerated in a county jail following his conviction and sentencing pending delivery to the institution to which he has been sentenced, or delivered to the keeper of the institution to which he has been sentenced, suspend the further execution of the sentence and place the defendant on probation upon terms the court determines. Time spent on any form of release following conviction shall not count toward time required under this section.

(2) The court shall consider any motion filed in accordance with subsection (1) of this section within sixty (60) days of the filing date of that motion, and shall enter its ruling within ten (10) days after considering the motion. The defendant may, in the discretion of the trial court, have the right to a hearing on any motion he may file, or have filed for him, that would suspend further execution of sentence. Any court order granting or denying a motion to suspend further execution of sentence is not reviewable.

(3) (a) During the period in which the defendant may file a motion pursuant to this statute, the sentencing judge, within his or her discretion, may order that the defendant be held in a local detention facility that is not at or above maximum capacity until such time as the court rules on said motion. During this period of detention, and prior to

the court's ruling on said motion, the court may require the defendant to participate in any approved community work program or other forms of work release. Persons held in the county jail pursuant to this subsection shall not be subject to transfer to a state correctional facility until the decision is made not to place the petitioner on shock probation.

(b) The provisions concerning community work programs or other forms of work release shall apply only to persons convicted of Class C or Class D felonies, and may be granted only after a hearing at which the Commonwealth's attorney has the opportunity to present arguments in favor or opposition thereto.

(4) If the defendant has been convicted of an offense under KRS 510.040, 510.050, 510.070, 510.080, 530.020, 530.064, or 531.310, or criminal attempt to commit any of these offenses under KRS 506.010, the sentence shall not be suspended, in accordance with KRS 532.045.

(5) ***When a defendant has been convicted of a sex crime, as defined in Section 1 of this Act, the court shall order a comprehensive sex offender presentence evaluation, unless one has been provided within the past six (6) months, in which case the court may order an update of the comprehensive sex offender presentence evaluation***[~~If the defendant has been convicted of an offense under KRS 510.060, 510.090, or 510.110, prior to considering the motion to suspend a sentence, the court shall order an evaluation~~] of the defendant[~~ to be~~] conducted by the sex offender treatment program operated or approved by the Department of Corrections or the ***Sex Offender Risk Assessment Advisory Board***[~~Department for Mental Health and Mental Retardation Services~~]. The ***comprehensive sex offender presentence*** evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment, and shall be considered by the court in determining whether to suspend the sentence. If the court suspends the sentence and places the defendant on probation, the provisions of KRS 532.045(3) to (7) shall apply.

(6) The authority granted in this section shall be exercised by the judge who imposed sentence on the defendant, unless he is unable to act and it appears that his inability to act should continue beyond the expiration of the term of the court. In such case, the judge who imposed sentence shall assign a judge to dispose of a motion filed under this section, or as prescribed by the rules and practices concerning the responsibility for disposition of criminal matters.

(7) The provisions of this section shall not apply where a sentence of death has been imposed.

Section 20. KRS 532.045 is amended to read as follows:

(1) As used in this section:

(a) "Position of authority" means, but is not limited to, the position occupied by a biological parent, adoptive parent, stepparent, foster parent, relative, household member, adult youth leader, recreational staff, or volunteer who is an adult, adult athletic manager, adult coach, teacher, classified school employee, certified school employee, counselor, staff, or volunteer for either a residential treatment facility, a holding facility as defined in KRS 600.020, or a detention facility as defined in KRS 520.010(4), staff or volunteer with a youth services organization, religious leader, health care provider, or employer;

(b) "Position of special trust" means a position occupied by a person in a position of authority who by reason of that position is able to exercise undue influence over the minor; and

(c) "Substantial sexual conduct" means penetration of the vagina or rectum by the penis of the offender or the victim, by any foreign object; oral copulation; or masturbation of either the minor or the offender.

(2) Notwithstanding other provisions of applicable law, probation shall not be granted to, nor shall the execution or imposition of sentence be suspended for, nor shall a finding bringing the defendant within the provision of this section be stricken for a person convicted of violating KRS 510.040, 510.050, 510.070, 510.080, 529.030 to 529.050, 529.070, 530.020, 531.310, 531.320, 531.370, or criminal attempt to commit any of these offenses under KRS 506.010, and, who meets one (1) or more of the following criteria:

(a) A person who commits any of the offenses enumerated in this subsection against a minor by the use of force, violence, duress, menace, or threat of bodily harm;

(b) A person who, in committing any of the offenses enumerated in this subsection, caused bodily injury to the minor;

(c) A person convicted of any of the offenses enumerated in this subsection and who was a stranger to the minor or made friends with the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection, unless the defendant honestly and reasonably believed the minor was eighteen (18) years old or older;

(d) A person who used a dangerous instrument or deadly weapon against a minor during the commission of any of the offenses enumerated in this subsection;

(e) A person convicted of any of the offenses enumerated in this subsection and who has had a prior conviction of assaulting a minor, with intent to commit an act constituting any of the offenses enumerated in this subsection;

(f) A person convicted of kidnapping a minor in violation of the Kentucky penal code and who kidnapped the minor for the purpose of committing an act constituting any of the offenses enumerated in this subsection;

(g) A person who is convicted of committing any of the offenses enumerated in this subsection on more than one (1) minor at the same time or in the same course of conduct;

(h) A person who in committing any of the offenses enumerated in this subsection has substantial sexual conduct with a minor under the age of fourteen (14) years; or

(i) A person who occupies a position of special trust and commits an act of substantial sexual conduct.

Nothing in this section shall be construed to prohibit the additional period of three (3) years conditional discharge required by KRS 532.043.

(3) If a person is not otherwise prohibited from obtaining probation or conditional discharge under subsection (2), the court may impose on the person a period of probation or conditional discharge. Probation or conditional discharge shall not be granted until the court is in receipt of ***the comprehensive sex offender presentence***~~[an]~~ evaluation of the offender performed by ***an approved provider, as defined in Section 4 of this Act or*** the~~[sex offender treatment program operated or approved by the]~~ Department of Corrections~~[or the Department for Mental Health and Mental Retardation Services]~~. The court shall use the ***comprehensive sex offender presentence*** evaluation in determining the appropriateness of probation or conditional discharge.

(4) If the court grants probation or conditional discharge, the offender shall be required, as a condition of probation or conditional discharge, to successfully complete a community-based sexual offender treatment program operated or approved by the Department of Corrections or the ***Sex Offender Risk Assessment Advisory Board***~~[Department for Mental Health and Mental Retardation Services]~~.

(5) The offender shall pay for any evaluation or treatment required pursuant to this section up to the offender's ability to pay but not more than the actual cost of the ***comprehensive sex offender presentence*** evaluation or treatment.

(6) Failure to successfully complete the sexual offender treatment program constitutes grounds for the revocation of probation or conditional discharge.

(7) ***The comprehensive sex offender presentence evaluation and*** all communications relative to the ***comprehensive sex offender presentence*** evaluation and treatment of a sexual offender shall fall under the provisions of KRS 197.440***. The comprehensive sex offender presentence evaluation shall be filed under seal*** and shall not be made a part of the court record subject to review in appellate proceedings ***and shall not be made available to the public***.

(8) Before imposing sentence, the court shall advise the defendant or his counsel of the contents and conclusions of any ***comprehensive sex offender presentence*** evaluation performed pursuant to this section and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel ***and the Commonwealth's attorney*** a copy of the ***comprehensive sex offender presentence*** evaluation. It shall not be necessary to disclose the sources of confidential information.

(9) To the extent that this section conflicts with KRS 533.010, this section shall take precedence.

Section 21. KRS 532.050 is amended to read as follows:

(1) No court shall impose sentence for conviction of a felony, other than a capital offense, without first ordering a presentence investigation after conviction and giving due consideration to a written report of the investigation. The presentence investigation report shall not be waived; however, the completion of the presentence investigation report may be delayed until after sentencing upon the written request of the defendant if the defendant is in custody and is ineligible for probation or conditional discharge.

(2) The report shall be prepared and presented by a probation officer and shall include an analysis of the defendant's history of delinquency or criminality, physical and mental condition, family situation and background, economic status, education, occupation, personal habits, and any other matters that the court directs to be included.

(3) Before imposing sentence for a felony conviction, the court may order the defendant to submit to psychiatric observation and examination for a period not exceeding sixty (60) days. The defendant may be remanded for this purpose to any available clinic or mental hospital or the court may appoint a qualified psychiatrist to make the examination.

(4) If the defendant has been convicted of ***a sex crime, as defined in Section 1 of this Act***~~[any felony offense under KRS Chapter 510, 530.020, 530.064, 531.310, any sexual offense under KRS 506.010 or 506.030, or any other felony offense committed in conjunction with a misdemeanor under KRS Chapter 510, the court shall]~~, prior to determining the sentence, ***the court shall*** order ***a comprehensive sex offender presentence***~~[an]~~ evaluation of the defendant to be conducted by ***an approved provider, as defined in Section 4 of this Act or*** the~~[sexual offender treatment program operated or approved by the]~~ Department of Corrections~~[or the Department for Mental Health and Mental Retardation Services]~~. The ***comprehensive sex offender presentence*** evaluation shall provide to the court a recommendation related to the risk of a repeat offense by the defendant and the defendant's amenability to treatment and shall be considered by the court in determining the appropriate sentence. A copy of the ***comprehensive sex offender presentence*** evaluation shall be furnished to the ***court, the Commonwealth's attorney,***~~[Commonwealth]~~ and to ***counsel for*** the defendant. If the defendant is eligible and the court suspends the sentence and places the defendant on probation or conditional discharge, the provisions of KRS 532.045(3) to (8) shall apply. All communications relative to the ***comprehensive sex offender presentence*** evaluation and treatment of the sex offender shall fall under the provisions of KRS 197.440 and shall not be

made a part of the court record subject to review in appellate proceedings. The defendant shall pay for any ***comprehensive sex offender presentence*** evaluation or treatment required pursuant to this section up to the defendant's ability to pay but no more than the actual cost of the ***comprehensive sex offender presentence*** evaluation or treatment.

(5) The presentence investigation report shall identify the counseling treatment, educational, and rehabilitation needs of the defendant and identify community-based and correctional-institutional-based programs and resources available to meet those needs or shall identify the lack of programs and resources to meet those needs.

(6) Before imposing sentence, the court shall advise the defendant or his counsel of the factual contents and conclusions of any presentence investigation or psychiatric examinations and afford a fair opportunity and a reasonable period of time, if the defendant so requests, to controvert them. The court shall provide the defendant's counsel a copy of the presentence investigation report. It shall not be necessary to disclose the sources of confidential information.

Section 22. KRS 532.100 is amended to read as follows:

(1) When an indeterminate term of imprisonment is imposed, the court shall commit the defendant to the custody of the Department of Corrections for the term of his sentence and until released in accordance with the law.

(2) When a definite term of imprisonment is imposed, the court shall commit the defendant to the county or city correctional institution or to a regional correctional institution for the term of his sentence and until released in accordance with the law.

(3) When a sentence of death is imposed, the court shall commit the defendant to the custody of the Department of Corrections with directions that the sentence be carried out according to law.

(4) The provisions of KRS 500.080(5) notwithstanding, if a Class D felon is sentenced to an indeterminate term of imprisonment of five (5) years or less, he shall serve that term in a county jail in a county in which the fiscal court has agreed to house state prisoners; except that, when an indeterminate sentence of two (2) years or more is imposed on a Class D felon convicted of a sexual offense enumerated in KRS 197.410(1) ***or a crime under subsection (11) or subsection (12) of Section 2 of this Act***, the sentence shall be served in a state institution. Counties choosing not to comply with the provisions of this subsection shall be granted a waiver by the commissioner of the Department of Corrections.

(5) The jailer of a county in which a Class D felon is incarcerated may request the commissioner of the Department of Corrections to incarcerate the felon in a state corrections institution if the jailer has reasons to believe that the felon is an escape risk, a danger to himself or other inmates, an extreme security risk, or needs protective custody beyond that which can be provided in a county jail. The commissioner of the Department of Corrections shall evaluate the request and transfer the inmate if he deems it necessary. If the commissioner refuses to accept the felon inmate, and the Circuit Judge of the county that has jurisdiction of the offense charged is of the opinion that the felon cannot be safely kept in a county jail, the Circuit Judge, with the consent of the Governor, may order the felon transferred to the custody of the Department of Corrections.

(6) Class D felons serving their time in a local jail shall be considered state prisoners, and the Department of Corrections shall pay the jail in which the prisoner is incarcerated a per diem amount determined according to KRS 431.215(2). For other state prisoners and parole violator prisoners, the per diem payments shall also begin on the date prescribed in KRS 431.215(2).

(7) State prisoners, excluding the Class D felons qualifying to serve time in county jails, shall be transferred to the state institution within forty-five (45) days of final sentencing.

Section 23. The provisions of Sections 1 to 16 of this Act shall apply to all persons who, after the effective date of this Act, are required under Section 2 of this Act to become registrants, as defined in Section 1 of this Act.

Section 24. The following KRS sections are repealed:

17.570 Order for sex offender risk assessment -- Cost -- Hearing -- Appeal -- Notice to sheriff upon release of sex offender.

17.572 Notification for high, moderate, and low risk sex offenders.

Section 25. Whereas the federal government has mandated that the Commonwealth immediately enact public safety legislation contained in this Act or lose federal funding, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill and Resolution have been posted for Committee consideration:

Education: **SB 91, HCR 114**

Calendar

HB 537, HB 178, HB 437, HB 623, HB 739, HCR 88, HB 522, HB 584, HB 650, HB 656, SB 14, HB 354, HB 415, HB 551, HB 608, HB 619, HB 662, HB 697, HB 504, HB 568, HB 665, HB 696, HB 706, HB 116, HB 430, HB 439, and **HB 549** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **SCR 20** has been examined and found correctly enrolled. Said Resolution was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:25 a.m.)

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 510, HB 605, HB 254, HB 347, HB 414, HB 506, HB 618, HB 702,** and **SB 105** have been posted for passage in the Orders of the Day for February 28, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 390, HB 621, SB 123, HB 386, HB 571, HB 694, HB 100, HB 321, HB 586, HB 640**

Orders of the Day

HB 543, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo reported that he had read the wrong bill number and moved to withdraw the motion that **HB 543** be taken from the orders and that **HB 543** retain its position in the Orders of the Day. Agreed.

HB 453, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 453**. Agreed.

Representative Damron moved that **HB 453**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See February 25, 2000 roll call on **HB 453** - Appendix.)

HB 453, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 453**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 360, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved the adoption of the Committee Substitute to **HB 360**. Agreed.

Representative Treesh moved that **HB 360**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 91, Nays 0**. (See February 25, 2000 roll call on **HB 360** - Appendix.)

HB 360, by way of Committee Substitute, was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 360**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 525, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of Floor Amendment No. 2 to **HB 525**. Agreed.

Representative Branham moved that **HB 525**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 25, 2000 roll call on **HB 525** - Appendix.)

HB 525, as amended, was passed and the title agreed to.

Representative Branham moved that the vote by which **HB 525**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 39, with House Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of House Floor Amendment No. 1 to **SB 39**. Agreed.

Representative Haydon moved that **SB 39**, as amended, be passed.

On the roll call the vote was: **Yeas 50, Nays 36**. (See February 25, 2000 roll call on **SB 39** - Appendix.)

SB 39, as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **SB 39**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 94, HB 186, HB 193, HB 222, HB 372, HB 374,** and **HB 463** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -11:10 a.m.)

Orders of the Day (Continued)

HB 645 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Rasche moved that **HB 645** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 25 , 2000 roll call on **HB 645** - Appendix.)

HB 645 was passed and the title agreed to.

Representative Rasche moved that the vote by which **HB 645** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 4, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of the Committee Substitute to **HB 4**. Agreed.

Representative Vincent moved that **HB 4**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 25, 2000 roll call on **HB 4** - Appendix.)

HB 4, by way of Committee Substitute, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 4**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 380, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute to **HB 380**. Agreed.

Representative Marzian moved that **HB 380**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See February 25, 2000 roll call on **HB 380** - Appendix.)

HB 380, by way of Committee Substitute, was passed and the title agreed to.

Representative Marzian moved that the vote by which **HB 380**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 664, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved the adoption of Committee Amendment No. 1 to **HB 664**. Agreed.

Representative McKee moved that **HB 664**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 1**. (See February 25, 2000 roll call on **HB 664** - Appendix.)

HB 664, as amended, was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 664**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 465 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 465** be passed.

On the roll call the vote was: **Yeas 92, Nays 3**. (See February 25 , 2000 roll call on **HB 465** - Appendix.)

HB 465 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 465** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 596, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of Floor Amendment No. 1 to **HB 596**. Agreed.

Representative R. Adams moved that **HB 596**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 1**. (See February 25, 2000 roll call on **HB 596** - Appendix.)

HB 596, as amended, was passed and the title agreed to.

Representative R. Adams moved that the vote by which **HB 596**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 754** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that **HR 115** be sent to the House Floor. Agreed.

Representative Stumbo moved that **HB 621** and **HB 386** be posted for passage in the Orders of the Day for February 28, 2000. Agreed.

Representative Stumbo moved that the rules be suspended that when the House does adjourn, it does so by voice vote. Agreed

Representative Stumbo moved that when the House adjourns, it does so until 4:00 p.m., February 28, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 852, by Representative Palumbo: AN ACT relating to incremental financing by local governments.

HB 853, by Representative Anderson: AN ACT relating to gubernatorial campaign finance.

HB 854, by Representative Anderson: AN ACT relating to write-in voting.

HB 855, by Representatives Barrows and Thomas: AN ACT relating to industrial hemp.

HB 856, by Representative J. Arnold: AN ACT relating to administrative regulations.

HB 857, by Representative L. Clark: AN ACT relating to licenses for barber shops.

HB 858, by Representative Ford: AN ACT relating to the voting rights of subdivision residents.

HB 859, by Representative A. Arnold: AN ACT relating to retirement.

HB 860, by Representative Anderson: AN ACT relating to gubernatorial campaign finance.

HB 861, by Representatives Anderson and Fischer: AN ACT relating to gubernatorial campaign finance.

HB 862, by Representative Anderson: AN ACT relating to solid waste.

HB 863, by Representatives Gray and Graham: AN ACT relating to hazardous duty retirement.

HB 864, by Representative Stacy: AN ACT relating to property tax.

HB 865, by Representatives Jenkins, Vincent, Riggs, Horlander, and Jordan: AN ACT relating to city police and fire departments.

HB 866, by Representatives Horlander, L. Clark, Miller, P. Clark, D. Butler, Wayne, Johns, Jenkins, Jordan, Bather, Marzian, Riggs, A. Arnold, Bruce, Allen, DeWeese, Cave, Barrows, Damron, and Anderson: AN ACT relating to voting locations.

HR 120, by Representatives Damron, Napier, and Ford: A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cabell D. Francis.

HJR 121, by Representatives Barrows and Thomas: A JOINT RESOLUTION requesting the United States Drug Enforcement Administration to revise federal policy to allow state regulated development of industrial hemp production and processing.

HJR 122, by Representative Colter: A JOINT RESOLUTION directing the Transportation Cabinet to accept Fox Hollow Road in Clay County into the state-maintained highway system.

HCR 123, by Representatives Anderson and Fischer: A CONCURRENT RESOLUTION relating to circuit clerks.

HR 124, by Representative D. Butler: A RESOLUTION recognizing Kentucky Music Weekend as the premier Kentucky Folk Music Festival upon the occasion of its twenty-fifth anniversary in July, 2000.

HR 125, by Representative A. Arnold: A RESOLUTION adjourning the House of Representatives in loving memory and honor of C.E. "Gravy" Bush.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 724, HB 740, HB 745, HB 777**

Appropriations and Revenue: **SJR 17, HB 102, HB 25, HB 719**

Banking and Insurance: **HB 17, HB 29, HB 64, HB 520, HB 638, HB 709, HB 754, HB 760, HB 788, HB 790, SB 169, SB 170**

Seniors, Military Affairs, and Public Safety: **HB 780, HB 731, HB 565, HCR 112, SJR 2, SB 59**

Motions, Petitions, and Communications (Continued)

Representative Damron moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Damron moved the adoption of the following **HR 120**:

HR 120, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Cabell D. Francis.

With deepest respect and admiration, we pay homage and tribute to our friend and colleague, Cabell D. Francis, and we pause in silent reverence for his soul.

WHEREAS, Cabell D. Francis, a native of Lincoln County, Kentucky, crossed that final bourne from which no traveler returns on February 22, 2000; and

WHEREAS, Cabell D. Francis was the devoted husband of Helen Carroll Francis; he was the loving father of a son, Cabell D. Francis II of Stanford, and two daughters, Alissa Francis Horseman of Stanford, and Margaret Francis Seifert of Hanover, Indiana; and he was the proud grandfather of four grandchildren; and

WHEREAS, Cabell D. Francis served his country with distinction in the United States Navy during World War II; and

WHEREAS, Cabell D. Francis will be remembered as an active and involved citizen, and a highly esteemed member of the Lincoln County community; he graduated from the University of Kentucky College of Law; he was a former Stanford and Hustonville city attorney, and he was a past president of the Lincoln County Bar Association, and past president of the Stanford Lions Club; and

WHEREAS, Cabell D. Francis served his constituents in Lincoln County with pride in the House of Representatives during the 1954 legislative session, and he represented Lincoln, Casey, Garrard and Boyle counties in the Senate during the 1958 and 1960 legislative sessions; and

WHEREAS, Cabell D. Francis was a devout member of Stanford Christian Church where he was an elder emeritus, and where he also taught Sunday school for many years; and

WHEREAS, the passing of Cabell D. Francis has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its utter sense of bereavement and loss upon the passing of Cabell D. Francis, and extends to his family its most profound and deepest sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of Cabell D. Francis.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Robert Damron for presentation to the family of Cabell D. Francis.

There being no objection **HR 120** was adopted.

Representative Siler moved the adoption of the following **Legislative Citation No. 75**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to hereby adjourn this legislative day in memory of Edgar Philpot the beloved son of the late Joe Philpot and Fannie Philpot; cherished husband of Betty Philpot; the devoted father of Sharon Utterback and Opal Lee Vance; and the loving grandfather of two grandchildren and two great-grandchildren. It is with the highest respect that the members join in expressing deepest sympathy to all who share in the loss of this distinguished native of Whitley County. He served his country with distinction during World War II as a member of the United States Army Company G 23rd Infantry Division under Major General Walter M. Roberts and General George S. Patton in the European Theatre where he was awarded the Purple Heart, the Oak Leaf Cluster and the Bronze Star. After working twenty years for General Motors in Dayton, Ohio, he returned to Whitley County and served as a member of the Whitley County Judicial

Nominating Commission, on the Advisory Board of Eastern Kentucky University, as a board member of Rehabilitation Industries, Inc., and as a member of the Hugh Harris Masonic Lodge and the Bethlehem Baptist Church. Deeply interested in the political process, he served as chairman of the Whitley County Democratic Party, was co-founder of the Whitley County Democrat Club and was actively involved in the campaigns of Governor Martha Layne Collins, Governor Wallace Wilkinson and Governor Paul E. Patton. The members of this august body join with Representative Charles L. Siler in paying tribute to this remarkable man whose generous presence and devoted service left this world a better place. Done in Frankfort, this twenty-fifth day of February, in the year two thousand.

Legislative Citation No. 75 was adopted without objection.

Representative C. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative C. Belcher moved that she be recorded as voting "yea" on **HB 360**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Simpson moved that his vote be changed from "yea" to "abstain" on **HB 450**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 360** and **HB 453**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 664**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 664**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 360, HB 453, HB 525, HB 645, HB 380,** and **SB 39**. Agreed.

Representative Heleringer moved that **HJR 99** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 5 to the Committee Substitute to **HB 1**, by Representative Feeley:

On page 10, after line 13, insert the following:

"***(5) Unexpended money remaining in the fund on June 30, 2007, shall revert to the general fund, unless the General Assembly acts before then, under Section 37 of this Act, to reenact Sections 1 to 18 of this Act.***";

On page 14, after line 23, insert the following:

"***(4) On June 30, 2007, any outstanding debts of the Container Recycling Authority shall become obligations of the Commonwealth, unless the General Assembly acts before then, under Section 37 of this Act, to reenact Sections 1 to 18 of this Act.***"; and

On page 41, after line 15, insert the following:

"Section 37. Sections 1 to 18 of this Act expire on July 1, 2007, unless the General Assembly acts before that date to reenact those provisions.".

Floor Amendment No. 1 to the Committee Substitute to **HB 414**, by Representative Yonts:

On page 22, after line 22, by inserting the following:

"SECTION 14. A NEW SECTION OF KRS CHAPTER 353 IS CREATED TO READ AS FOLLOWS:

The department shall deny an application for a permit to drill a well if the proposed drilling might endanger the safety of underground coal miners." and;

On page 22, line 23, by changing "14" to "15".

Floor Amendment No. 1 to **HB 665**, by Representative Cherry:

On page 1, line 19 by deleting the second "***and***" after the semicolon; and

On page 1, line 20 by adding "***and***" after the semicolon; and

On page 1, line 21 by inserting before the "*(7)*" the following new language "***(h) Bees and bee products;***"

Floor Amendment No. 1 to **HB 511**, by Representative Stumbo:

On page 8, after line 23, by inserting the following:

"Section 5. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received;

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors, members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education, and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

  (a) The Governor;

  (b) The Lieutenant Governor;

  (c) The Secretary of State;

  (d) The Attorney General;

  (e) The Treasurer;

  (f) The Commissioner of Agriculture;

  (g) The Auditor of Public Accounts;

  (h) Each Railroad Commissioner; and

  (i) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (h) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments; ~~[and]~~

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else***; and***

(18) "Sporting event" means any professional or amateur sport, athletic game, contest, event, or race involving machines, persons, or animals, for which admission tickets are offered for sale and that is viewed by the public.

Section 6. KRS 11A.045 is amended to read as follows:

(1) No public servant, his spouse, or dependent child knowingly shall accept tangible gifts or gratuities totaling a value greater than twenty-five dollars ($25) in a single calendar year, or travel expenses, meals, alcoholic beverages, lodging or honoraria of any value, from any person or business that does business with, is regulated by, is seeking grants from, is involved in litigation against, or is lobbying or attempting to influence the actions of the agency in which the public servant is employed or which he supervises, or from any group or association which has as its primary purpose the representation of those persons or businesses. The following items are exempt:

- (a) Coffee, soft drinks, pastries, hors d'oeuvres, or similar refreshments;
- (b) Food consumed at a public event to which twenty-five (25) or more individuals are in attendance if that event is also open to participants other than public servants and members of the donor's industry;
- (c) Meals, beverages, and free admission to an event if the public servant, as a part of his official duty, is a speaker or has a significant role in the program;
- (d) A campaign contribution to an employee's own campaign if in compliance with KRS Chapters 121 and 121A and all other campaign finance laws;
- (e) A gift from a family member who is not acting as an intermediary for a person from whom the gift would be otherwise prohibited;
- (f) Food, clothing, and shelter in times of natural disaster or other emergency;
- (g) Door prizes, if also open to persons other than public servants and members of the donor's industry and if all participants have an equal chance of receiving the prize;
- (h) Gifts which are modest, reasonable, and customary, received on special occasions such as marriage or retirement;
- (i) Awards of modest and reasonable value which are publicly received in recognition of public or charitable service, such as plaques;
- (j) Prizes awarded based solely on skill, such as those received in golf or tennis tournaments, if those tournaments are open to participants other than public servants and members of the donor's industry;
- (k) Meals at conferences or seminars which are included as part of the dues paid or registration fee and which are available to all attendees; and
- (l) A single copy of a textbook received by an educator for review.

(2) ***Nothing in KRS Chapter 11A shall prohibit or restrict the allocation of or acceptance by a public servant of a ticket for admission to a sporting event if the ticket or admission is paid for by the public servant at face value or is paid for at face value by the individual to whom the ticket is allocated.***

(3) Nothing in KRS 11A.001 to 11A.110 shall prohibit or restrict the acceptance by a public servant of the Cabinet for Economic Development or by any other public servant working directly with the cabinet on an economic incentive package of anything of economic value as a gift or gratuity, if the gift or gratuity:

- (a) Was not solicited by the public servant;
- (b) Was accepted by the public servant in the performance of his or her official duties and in compliance with guidelines to be established by the Kentucky Economic Development Partnership which shall include requirements that all gifts or gratuities of a reportable value under KRS 11A.050(3)(k) be registered with the Kentucky Economic Development Partnership and with the Executive Branch Ethics Commission and that all tangible property with a value in excess of twenty-five dollars ($25), other than food and beverages consumed on the premises, shall be turned over to the Cabinet for Economic Development within thirty (30) days of receipt. In filing reports of gifts or gratuities with the Executive Branch Ethics Commission, the Cabinet for Economic

Development may delete information identifying the donors if the cabinet believes identification of the donors would damage economic development; and

(c) Was not accepted under circumstances which would create a violation of KRS Chapter 521."

Floor Amendment No. 1 to **HB 800**, by Representative Siler:

On page 2, following line 15, by inserting:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 205 IS CREATED TO READ AS FOLLOWS:

Any legislative agent whose maximum compensation is limited to one thousand dollars ($1,000) by Section 1 of this Act shall be eligible for low income heating assistance via block grant programs administered by the cabinet, unless prohibited by federal law."

Floor Amendment No. 2 to **HB 800**, by Representative Siler:

On page 2, following line 15, by inserting:

"Section 2. KRS 337.010 is amended to read as follows:

(1) As used in this chapter, unless the context requires otherwise:

(a) "Commissioner" means commissioner of the Department of Workplace Standards under the direction and supervision of the secretary of the Labor Cabinet;

(b) "Department" means Department of Workplace Standards in the Labor Cabinet;

(c) "Wages" includes any compensation due to an employee by reason of his employment, including salaries, commissions, vested vacation pay, overtime pay, severance or dismissal pay, earned bonuses, and any other similar advantages agreed upon by the employer and the employee or provided to employees as an established policy. The wages shall be payable in legal tender of the United States or checks on banks convertible into cash on demand at full face value, subject to the allowances made in this chapter;

(d) "Employer" is any person, either individual, corporation, partnership, agency, or firm who employs an employee and includes any person, either individual, corporation, partnership, agency, or firm acting directly or indirectly in the interest of an employer in relation to an employee; and

(e) "Employee" is any person employed by or suffered or permitted to work for an employer.

(2) As used in KRS 337.275 to 337.325, 337.345, and KRS 337.385 to 337.405, unless the context requires otherwise:

(a) "Employee" is any person employed by or suffered or permitted to work for an employer, but shall not include:

1. Any individual employed in agriculture;
2. Any individual employed in a bona fide executive, administrative, supervisory, or professional capacity, or in the capacity of outside salesman, or as an outside collector as the terms are defined by administrative regulations of the commissioner;
3. Any individual employed by the United States;
4. Any individual employed in domestic service in or about a private home. The provisions of this section shall include individuals employed in domestic service in or about the home of an employer where there is more than one (1) domestic servant regularly employed;
5. Any individual classified and given a certificate by the commissioner showing a status of learner, apprentice, worker with a disability, sheltered workshop employee, and student under administrative procedures and administrative regulations prescribed and promulgated by the commissioner. This certificate shall authorize employment at the wages, less than the established fixed minimum fair wage rates, and for the period of time fixed by the commissioner and stated in the certificate issued to the person;
6. Employees of retail stores, service industries, hotels, motels, and restaurant operations whose average annual gross volume of sales made for business done is less than ninety-five thousand dollars ($95,000) for the five (5) preceding years exclusive of excise taxes at the retail level or if the employee is the parent, spouse, child, or other member of his employer's immediate family;
7. Any individual employed as a baby-sitter in an employer's home, or an individual employed as a companion by a sick, convalescing, or elderly person or by the person's immediate family, to care for that sick, convalescing, or elderly person and whose principal duties do not include housekeeping;
8. Any individual engaged in the delivery of newspapers to the consumer;
9. Any individual subject to the provisions of KRS Chapters 7, 16, 27A, 30A, and 18A provided that the secretary of the Personnel Cabinet shall have the authority to prescribe by administrative regulation those

emergency employees, or others, who shall receive overtime pay rates necessary for the efficient operation of government and the protection of affected employees;

10. Any employee employed by an establishment which is an organized nonprofit camp, religious, or nonprofit educational conference center, if it does not operate for more than seven (7) months in any calendar year; ~~[or]~~

11. Any employee whose function is to provide twenty-four (24) hour residential care on the employer's premises in a parental role to children who are primarily dependent, neglected, and abused and who are in the care of private, nonprofit childcaring facilities licensed by the Cabinet for Families and Children under KRS 199.640 to 199.670~~[.]~~*; or*

12. Any legislative agent as defined in KRS 6.611

(b) "Agriculture" means farming in all its branches, including cultivation and tillage of the soil; dairying; production, cultivation, growing, and harvesting of any agricultural or horticultural commodity; raising of livestock, bees, furbearing animals, or poultry; and any practice, including any forestry or lumbering operations, performed on a farm in conjunction with farming operations, including preparation and delivery of produce to storage, to market, or to carriers for transportation to market;

(c) "Gratuity" means voluntary monetary contribution received by an employee from a guest, patron, or customer for services rendered;

(d) "Tipped employee" means any employee engaged in an occupation in which he customarily and regularly receives more than thirty dollars ($30) per month in tips; and

(e) "U.S.C." means the United States Code.

(3) As used in KRS 337.505 to 337.550, unless the context requires otherwise:

(a) "Construction" includes construction, reconstruction, improvement, enlargement, alteration, or repair of any public works project by contract fairly estimated to cost more than two hundred fifty thousand dollars ($250,000). No public works project, if procured under a single contract and subject to the requirements of this section, may be divided into multiple contracts of lesser value to avoid compliance with the provisions of this section;

(b) "Contractor" and "subcontractor" include any superintendent, foreman, or other authorized agent of any contractor or subcontractor who is in charge of the construction of the public works or who is in charge of the employment or payment of the employees of the contractor or subcontractor who are employed in performing the work to be done or being done by the contractor or subcontractor under the particular contract with any public authority;

(c) 1. "Locality" shall be determined by the commissioner. The commissioner may designate more than one (1) county as a single locality, but if more than one (1) county is designated, the multicounty locality shall not extend beyond the boundaries of a state Senatorial district. The commissioner shall not designate less than an entire county as a locality. If there is not available in the locality a sufficient number of competent, skilled laborers, workmen, and mechanics to efficiently and properly construct the public works, "locality" shall include any other locality nearest the one in which the work of construction is to be performed and from which such available skilled laborers, workmen, and mechanics may be obtained in sufficient number to perform the work; and

2. "Locality" with respect to contracts advertised or awarded by the Transportation Cabinet of this state shall be determined by the secretary of the Transportation Cabinet. The secretary may designate any number of counties as constituting a single locality. The secretary may also designate all counties of the Commonwealth as a single locality, but he shall not designate less than an entire county as a locality;

(d) "Public authority" means any officer, board, or commission of this state, or any political subdivision or department thereof in the state, or any institution supported in whole or in part by public funds, including publicly owned or controlled corporations, authorized by law to enter into any contract for the construction of public works and any nonprofit corporation funded to act as an agency and instrumentality of the government agency in connection with the construction of public works, and any "private provider", as defined in KRS 197.500, which enters into any contract for the construction of an "adult correctional facility", as defined in KRS 197.500; and

(e) "Public works" includes all buildings, roads, streets, alleys, sewers, ditches, sewage disposal plants, waterworks, and all other structures or work, including "adult correctional facilities", as defined in KRS 197.500, constructed under contract with any public authority.

(4) If the federal government or any of its agencies furnishes by loans or grants any part of the funds used in constructing public works, and if the federal government or its agencies prescribe predetermined prevailing minimum wages to be paid to mechanics, workmen, and laborers employed in the construction of the public works, and if KRS 337.505 to 337.550 is also applicable, those wages in each classification which are higher shall prevail."

Floor Amendment No. 3 to **HB 800**, by Representative Siler:

On page 2, following line 15, by inserting:

"Section 2. KRS 403.200 is amended to read as follows:

(1) In a proceeding for dissolution of marriage or legal separation, or a proceeding for maintenance following dissolution of a marriage by a court which lacked personal jurisdiction over the absent spouse, the court may grant a maintenance order for either spouse only if it finds that the spouse seeking maintenance:

(a) Lacks sufficient property, including marital property apportioned to him, to provide for his reasonable needs; and

(b) Is unable to support himself through appropriate employment or is the custodian of a child whose condition or circumstances make it appropriate that the custodian not be required to seek employment outside the home.

(2) The maintenance order shall be in such amounts and for such periods of time as the court deems just, and after considering all relevant factors including:

(a) The financial resources of the party seeking maintenance, including marital property apportioned to him, and his ability to meet his needs independently, including the extent to which a provision for support of a child living with the party includes a sum for that party as custodian;

(b) The time necessary to acquire sufficient education or training to enable the party seeking maintenance to find appropriate employment;

(c) The standard of living established during the marriage;

(d) The duration of the marriage;

(e) The age, and the physical and emotional condition of the spouse seeking maintenance; and

(f) The ability of the spouse from whom maintenance is sought to meet his needs while meeting those of the spouse seeking maintenance.

(3) The one thousand dollar ($1,000) maximum annual earnings for legislative agents set by Section 1 of this Act shall not be considered in determining the ability of the spouse from whom maintenance is sought to provide maintenance from the spouse seeking maintenance.

Section 3. KRS 403.212 is amended to read as follows:

(1) The following provisions and child support table shall be the child support guidelines established for the Commonwealth of Kentucky.

(2) For the purposes of the child support guidelines:

(a) "Income" means actual gross income of the parent if employed to full capacity or potential income if unemployed or underemployed.

(b) "Gross income" includes income from any source, except as excluded in this subsection, and includes but is not limited to income from salaries, wages, retirement and pension funds, commissions, bonuses, dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits, workers' compensation benefits, unemployment insurance benefits, disability insurance benefits, Supplemental Security Income (SSI), gifts, prizes, and alimony or maintenance received. Specifically excluded are benefits received from means-tested public assistance programs, including but not limited to public assistance as defined under Title IV-A of the Federal Social Security Act, [~~and~~]food stamps***; and income earned by legislative agents as defined in KRS 6.611, up to their maximum salary as set by Section 1 of this Act***.

(c) For income from self-employment, rent, royalties, proprietorship of a business, or joint ownership of a partnership or closely held corporation, "gross income" means gross receipts minus ordinary and necessary expenses required for self-employment or business operation. Straight-line depreciation, using Internal Revenue Service (IRS) guidelines, shall be the only allowable method of calculating depreciation expense in determining gross income. Specifically excluded from ordinary and necessary expenses for purposes of this guideline shall be investment tax credits or any other business expenses inappropriate for determining gross income for purposes of calculating child support. Income and expenses from self-employment or operation of a business shall be carefully reviewed to determine an appropriate level of gross income available to the parent to satisfy a child support obligation. In most cases, this amount will differ from a determination of business income for tax purposes. Expense reimbursement or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business or personal use of business property or payments of expenses by a business, shall be counted as income if they are significant and reduce personal living expenses such as a company or business car, free housing, reimbursed meals, or club dues.

(d) If a parent is voluntarily unemployed or underemployed, child support shall be calculated based on a determination of potential income, except that a determination of potential income shall not be made for a parent who is physically or mentally incapacitated or is caring for a very young child, age three (3) or younger, for whom the parents owe a joint legal responsibility. Potential income shall be determined based upon employment potential and probable earnings level based on the obligor's or obligee's recent work history, occupational qualifications, and prevailing job opportunities and earnings levels in the community. A court may find a parent to be voluntarily unemployed or underemployed without finding that the parent intended to avoid or reduce the child support obligation.

(e) "Imputed child support obligation" means the amount of child support the parent would be required to pay from application of the child support guidelines.

(f) Income statements of the parents shall be verified by documentation of both current and past income. Suitable documentation shall include, but shall not be limited to, income tax returns, paystubs, employer statements, or receipts and expenses if self-employed.

(g) "Combined adjusted parental gross income" means the combined gross incomes of both parents, less any of the following payments made by the parent:

1. The cost of health insurance coverage for the child;
2. The amount of pre-existing orders for current maintenance for prior spouses to the extent payment is actually made and the amount of current maintenance, if any, ordered paid in the proceeding before the court;
3. The amount of pre-existing orders of current child support for prior-born children to the extent payment is actually made under those orders; and
4. A deduction for the support to the extent payment is made, if a parent is legally responsible for and is actually providing support for other prior-born children who are not the subject of a particular proceeding. If the prior-born children reside with that parent, an "imputed child support obligation" shall be allowed in the amount which would result from application of the guidelines for the support of the prior-born children.

(3) The child support obligation set forth in the child support guidelines table shall be divided between the parents in proportion to their adjusted gross income.

(4) The child support obligation shall be the appropriate amount for the number of children in the table for whom the parents share a joint legal responsibility. The minimum amount of child support shall be sixty dollars ($60) per month.

(5) The court may use its judicial discretion in determining child support in circumstances where combined adjusted parental gross income exceeds the uppermost levels of the guideline table.

(6) The child support guidelines table is as follows:

COMBINED MONTHLY ADJUSTED PARENTAL GROSS INCOME	ONE CHILD	TWO CHILDREN	THREE	FOUR	FIVE	SIX OR MORE
$ 0$ 60	$ 60	$ 60	$ 60	$ 60	$ 60	
100 60	60	60	60	60	60	
200	70	70	70	70	70	70
300	80	80	80	80	80	80
400	90	90	90	90	90	90
500	100	105	110	115	120	125
600	120	125	130	135	140	145
700	140	156	161	166	171	176
800	160	203	208	213	218	223
900	180	261	266	271	276	281
1,000195	303	325	330	335	340	
1,100212	324	384	389	394	399	
1,200229	346	433	446	451	456	
1,300246	367	460	504	510	515	
1,400262	392	491	554	576	582	
1,500277	417	522	588	642	650	

1,600293	437	548	618	674	717
1,700308	458	574	647	706	755
1,800322	478	599	675	736	788
1,900336	495	620	699	763	816
2,000350	512	642	723	789	844
2,100364	529	663	747	815	872
2,200376	546	684	771	841	900
2,300389	563	706	795	868	928
2,400401	580	727	819	894	956
2,500413	597	749	843	920	984
2,600424	614	770	867	946	1,012
2,700435	630	790	889	970	1,038
2,800445	646	809	911	994	1,064
2,900455	662	829	934	1,019	1,090
3,000465	677	849	956	1,043	1,116
3,100475	693	868	978	1,067	1,142
3,200485	709	888	1,001	1,092	1,168
3,300495	725	908	1,023	1,116	1,194
3,400506	741	928	1,045	1,140	1,220
3,500516	757	947	1,067	1,164	1,246
3,600526	773	967	1,090	1,189	1,272
3,700536	790	988	1,113	1,215	1,299
3,800548	808	1,011	1,139	1,243	1,329
3,900559	826	1,033	1,164	1,270	1,359
4,000571	844	1,056	1,190	1,298	1,388
4,100580	862	1,078	1,215	1,326	1,418
4,200592	880	1,101	1,240	1,353	1,448
4,300603	898	1,123	1,266	1,381	1,477
4,400615	916	1,146	1,291	1,409	1,507
4,500626	933	1,161	1,316	1,435	1,535
4,600636	949	1,181	1,338	1,459	1,561
4,700647	964	1,200	1,360	1,483	1,586
4,800657	980	1,220	1,381	1,507	1,612
4,900667	995	1,239	1,403	1,531	1,637
5,000676	1,010	1,257	1,424	1,554	1,661
5,100686	1,025	1,275	1,444	1,576	1,685
5,200695	1,039	1,294	1,465	1,599	1,709
5,300705	1,054	1,312	1,486	1,621	1,733
5,400714	1,069	1,330	1,506	1,644	1,757
5,500724	1,083	1,348	1,527	1,666	1,781
5,600733	1,098	1,367	1,548	1,689	1,805
5,700743	1,113	1,385	1,568	1,712	1,829
5,800753	1,127	1,403	1,589	1,734	1,853
5,900762	1,142	1,421	1,610	1,757	1,877
6,000772	1,157	1,440	1,630	1,779	1,901
6,100781	1,171	1,458	1,651	1,802	1,926
6,200791	1,186	1,476	1,672	1,824	1,950
6,300800	1,198	1,498	1,690	1,844	1,970

6,400808	1,209	1,511	1,705	1,860	1,988
6,500816	1,219	1,524	1,720	1,876	2,005
6,600823	1,230	1,538	1,735	1,893	2,023
6,700830	1,240	1,551	1,750	1,909	2,040
6,800837	1,251	1,564	1,764	1,925	2,058
6,900844	1,261	1,577	1,779	1,942	2,075
7,000851	1,272	1,591	1,794	1,958	2,093
7,100858	1,282	1,604	1,809	1,975	2,110
7,200865	1,293	1,617	1,824	1,991	2,127
7,300872	1,303	1,630	1,839	2,007	2,145
7,400879	1,313	1,644	1,854	2,024	2,162
7,500885	1,324	1,657	1,869	2,040	2,179
7,600891	1,333	1,668	1,881	2,053	2,194
7,700896	1,342	1,679	1,893	2,066	2,208
7,800901	1,350	1,691	1,905	2,079	2,223
7,900907	1,359	1,702	1,917	2,093	2,238
8,000912	1,368	1,713	1,929	2,106	2,252
8,100917	1,377	1,724	1,941	2,119	2,267
8,200922	1,386	1,736	1,953	2,133	2,281
8,300928	1,395	1,747	1,965	2,146	2,296
8,400933	1,404	1,758	1,977	2,159	2,311
8,500938	1,413	1,769	1,989	2,173	2,325
8,600944	1,421	1,780	2,002	2,186	2,340
8,700949	1,430	1,792	2,014	2,199	2,354
8,800954	1,437	1,800	2,024	2,210	2,366
8,900958	1,444	1,809	2,033	2,220	2,376
9,000962	1,450	1,817	2,042	2,230	2,387
9,100966	1,457	1,825	2,052	2,241	2,398
9,200971	1,463	1,833	2,061	2,251	2,408
9,300975	1,470	1,842	2,070	2,261	2,419
9,400979	1,476	1,850	2,079	2,271	2,430
9,500983	1,483	1,858	2,089	2,281	2,440
9,600988	1,489	1,866	2,098	2,291	2,451
9,700992	1,496	1,874	2,107	2,301	2,461
9,800996	1,502	1,883	2,117	2,311	2,472
9,9001,000	1,508	1,891	2,126	2,321	2,483
10,0001,005	1,515	1,899	2,165	2,331	2,493
10,4001,022	1,541	1,932	2,202	2,372	2,536
10,5001,027	1,548	1,940	2,212	2,382	2,546
10,6001,032	1,554	1,948	2,221	2,392	2,557
10,7001,036	1,561	1,956	2,230	2,402	2,567
10,8001,040	1,567	1,965	2,240	2,412	2,578
10,9001,044	1,573	1,973	2,249	2,422	2,589
11,0001,049	1,580	1,981	2,258	2,432	2,599
11,1001,053	1,587	1,989	2,268	2,443	2,610
11,2001,058	1,593	1,997	2,277	2,453	2,620
11,3001,062	1,600	2,005	2,286	2,463	2,631
11,4001,066	1,606	2,013	2,295	2,473	2,642

11,5001,070	1,613	2,021	2,305	2,483	2,652
11,6001,075	1,619	2,029	2,314	2,493	2,663
11,7001,079	1,626	2,037	2,323	2,503	2,673
11,8001,084	1,633	2,046	2,333	2,513	2,684
11,9001,088	1,639	2,054	2,342	2,523	2,695
12,0001,093	1,646	2,062	2,351	2,533	2,705
12,1001,097	1,653	2,070	2,361	2,544	2,716
12,2001,102	1,659	2,078	2,370	2,554	2,726
12,3001,106	1,666	2,086	2,379	2,564	2,737
12,4001,110	1,672	2,094	2,388	2,574	2,748
12,5001,114	1,679	2,102	2,398	2,584	2,758
12,6001,119	1,685	2,110	2,407	2,594	2,769
12,7001,123	1,692	2,118	2,416	2,604	2,779
12,8001,128	1,699	2,127	2,426	2,614	2,790
12,9001,132	1,705	2,135	2,435	2,624	2,801
13,0001,137	1,712	2,143	2,444	2,634	2,811
13,1001,141	1,719	2,151	2,454	2,645	2,822
13,2001,146	1,725	2,159	2,463	2,665	2,832
13,3001,150	1,732	2,167	2,472	2,665	2,843
13,4001,154	1,738	2,175	2,481	2,675	2,854
13,5001,158	1,745	2,183	2,491	2,685	2,864
13,6001,163	1,751	2,191	2,500	2,695	2,875
13,7001,167	1,758	2,199	2,509	2,705	2,885
13,8001,172	1,765	2,208	2,519	2,715	2,896
13,9001,176	1,771	2,216	2,528	2,725	2,907
14,0001,181	1,778	2,224	2,537	2,735	2,917
14,1001,185	1,785	2,232	2,547	2,746	2,928
14,2001,190	1,791	2,240	2,556	2,756	2,938
14,3001,194	1,798	2,248	2,565	2,766	2,949
14,4001,198	1,804	2,256	2,574	2,776	2,960
14,5001,202	1,811	2,264	2,584	2,786	2,970
14,6001,207	1,817	2,272	2,593	2,796	2,981
14,7001,211	1,824	2,280	2,602	2,806	2,991
14,8001,216	1,831	2,289	2,612	2,816	3,002
14,9001,220	1,837	2,297	2,621	2,826	3,013
15,0001,225	1,844	2,305	2,630	2,836	3,023"

Floor Amendment No. 1 to **HB 692**, by Representative Lindsay:

On page 3, after line 16 by inserting the following:

"Section 4. KRS 44.070 is amended to read as follows:

(1) A Board of Claims, composed of the members of the Crime Victims Compensation Board as hereinafter provided, is created and vested with full power and authority to investigate, hear proof, and to compensate persons for damages sustained to either person or property as a proximate result of negligence on the part of the Commonwealth, any of its cabinets, departments, bureaus, or agencies, or any of its officers, agents, or employees while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies; provided, however, regardless of any provision of law to the contrary, the Commonwealth, its cabinets, departments, bureaus, and agencies, and its officers, agents, and employees, while acting within the scope of their employment by the Commonwealth or any of its cabinets, departments, bureaus, or agencies, shall not be liable for collateral or dependent claims which are dependent on loss to another and not the claimant, damages for mental distress or pain or suffering, and compensation

shall not be allowed, awarded, or paid for said claims for damages. Furthermore, any damage claim awarded shall be reduced by the amount of payments received or right to receive payment from workers' compensation insurance, social security programs, unemployment insurance programs, medical, disability or life insurance programs, or other federal or state or private program designed to supplement income or pay claimant's expenses or damages incurred. Any claim against the Commonwealth, its departments, agencies, officers, agents, or employees, or a school district board of education, its members, officers, agents, or employees for damages sustained as the result of exposure to asbestos before, during or after its removal from a facility owned, leased, occupied, or operated by the Commonwealth or a school district board of education shall be brought before the Board of Claims. Except as herein provided, the board shall be independent of all agencies, cabinets, and departments of the Commonwealth except as provided in KRS 44.070 to 44.160.

(2) The board shall be composed of the members of the Crime Victims Compensation Board. The members shall not be entitled to additional compensation for their services on the Board of Claims.

(3) The Governor shall designate a member of the board to serve as chairman for a term of four (4) years. Any vacancy in the chairmanship shall be filled by the Governor. No member shall, at the same time, serve as chairman of the Crime Victims Compensation Board and as chairman of the Board of Claims.

(4) The employees of the Crime Victims Compensation Board, without additional compensation, shall be ex officio employees of the Board of Claims.

(5) Regardless of any provision of law to the contrary, the jurisdiction of the board is exclusive, and a single claim for the recovery of money or a single award of money shall not exceed ***two*** [~~one~~]hundred thousand dollars ***($200,000)***[~~($100,000)~~], exclusive of interest and costs. However, if a single act of negligence results in multiple claims, the total award may not exceed ***three*** [~~two~~]hundred fifty thousand dollars ***($350,000***[~~($250,000)~~], to be equitably divided among the claimants, but in no case may any claimant individually receive more than ***two*** [~~one~~]hundred thousand dollars ***($200,000)***[~~($100,000)~~].

(6) The Governor shall appoint the necessary number of hearing officers, each of whom shall be an attorney admitted to practice law in Kentucky and shall have practiced law for at least three (3) years. These officers, upon the direction of the chairman or the board, shall conduct hearings, and otherwise supervise the presentation of evidence and perform any other duties assigned to them by the chairman or the board, except that such hearing officers shall not render final decisions, orders, or awards. However, such hearing officers may, in receiving evidence on behalf of the board, make such rulings affecting the competency, relevancy, and materiality of the evidence about to be presented and upon motions presented during the taking of evidence as will expedite the preparation of the case.

(7) The board may at any time recommend the removal of any hearing officer upon filing with the Governor a full written statement of its reasons for such removal.

(8) Upon recommendation to the board by the attorney for the Commonwealth, its cabinet, department, bureau, agency, or employee thereof, that a settlement has been reached between the parties to the claim, and upon approval by the board that the settlement is reasonable for all parties concerned, the agreed judgment or dismissal may be entered accordingly, even without a party's admission to liability."

Floor Amendment No. 1 to the Committee Substitute to **HB 390**, by Representative Collins:

On page 31, line 12 after "***disability,***" and before the second use of "***a***" by inserting "***a congenital condition,***";

On page 31, line 16 after the first use of "***person***" and before the comma by inserting "***or authorized person***"; and

On page 32, line 14 after "***disabling,***" and before "***or***" by inserting "***congenital,***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 117:	Representative Riner
HB 269:	Representative Stewart
HB 349:	Representative C. Belcher
HB 380:	Representative Gooch
HB 439:	Representative Branham
HB 543:	Representative Napier
HB 805:	Representatives Alexander, Anderson, Vincent, Yonts
HB 806:	Representatives Alexander, Anderson, Vincent, Yonts

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 285: Representative Collins

Announcements

The following meeting was announced:

Budget Review Subcommittee on Justice, February 25, 2000, 30 minutes upon adjournment, Room 125

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., February 25, 2000.

The motion that the House adjourn until 4:00 p.m., February 25, 2000, was adopted by voice vote.

FEBRUARY 28, 2000

THIRTY-SIXTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by the Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Jordan and Reinhardt.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 25, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 143, HB 106, HB 108, HB 110, HB 194, HB 218, HB 219, HB 236, HB 376, HB 404, HCR 34, HJR 41, HJR 42, HCR 45, HJR 59, and HJR 66.**

Message received on **HB 165** is as follows: The Senate has passed **HB 165** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 4:10 p.m.)

Introduction of Bills and Resolutions

HB 867, by Representatives Anderson and Cornett: AN ACT relating to sales and use tax.

HB 868, by Representative Anderson: AN ACT relating to utility gross receipts tax.

HB 869, by Representative Anderson: AN ACT relating to local occupational tax.

HB 870, by Representatives Webb, Cornett, Stewart, Childers, Coleman, J. Turner, Upchurch, Stacy and Alexander: AN ACT relating to a special license plate to benefit the Kentucky Chapter of the National Wild Turkey Federation.

HB 871, by Representative Wilkey: AN ACT relating to state government.

HB 872, by Representative Branham: AN ACT relating to surface coal mining.

HB 873, by Representative Tapp: AN ACT relating to secondary vocational education.

HB 874, by Representatives Bather, Jenkins, and Stacy: AN ACT relating to automobile lease contracts.

HB 875, by Representative Riggs: AN ACT relating to insurance.

HCR 126, by Representative Bather: A CONCURRENT RESOLUTION creating a Task Force on the Proper Investigation and Adjudication of Civilian Complaints of Police Misconduct for cities of the first class.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 849, HB 855, HJR 121**

Appropriations and Revenue: **HB 851, HB 864**

Education: **HB 847, HB 850, SB 46, SB 229, SB 236**

Elections and Constitutional Amendments and Intergovernmental Affairs: **HB 853, HB 854, HB 858, HB 860, HB 861, HB 866**

Health and Welfare: **HB 843, SB 186**

Judiciary: **HB 845, HB 846, HCR 123, SB 137, SB 223**

Licensing and Occupations: **HB 857, SB 152, SB 155**

Local Government: **HB 844, HB 852, HB 865**

Natural Resources and Environment: **HB 862**

State Government: **HB 842, HB 848, HB 856, HB 859, HB 863, SCR 61**

Transportation: **HJR 122, SB 78, SB 208**

House Floor: **HR 124, HR 125**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Natural Resources and Environment: **HCR 108**

Economic Development and Tourism: **HB 307**

Judiciary: **HB 682, HB 683, HB 684, HB 685, HB 687, HB 686, HB 794**

State Government: **HB 814, HB 822, HB 825, HB 773, HB 763, HR 106, HJR 113, HB 711**

The Clerk announced that the following Bills have been withdrawn from Committee consideration:

Judiciary: **HB 400, HB 401, HB 403**

Calendar

HB 308, HB 361, HB 693, and **HB 545** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Orders of the Day

HB 472, with Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of Floor Amendment No. 2 to **HB 472**. Agreed.

Representative D. Butler moved that **HB 472**, as amended, be passed.

On the roll call the vote was: **Yeas 54, Nays 32**. (See February 28, 2000 roll call on **HB 472** - Appendix.)

HB 472, as amended, was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 472**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 296, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Westrom moved the adoption of the Committee Substitute to **HB 296**.

On the roll call the vote was: **Yeas 28, Nays 59**. (See February 28, 2000, roll call on the Committee Substitute to **HB 296** - Appendix.)

The motion to adopt the Committee Substitute to **HB 296** was defeated.

Representative Lindsay moved that **HB 296** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 28, 2000 roll call on the motion that **HB 296** be laid on the Clerk's Desk - Appendix.)

The motion that **HB 296** be laid on the Clerk's Desk was adopted.

Report On Enrolled Bills

HB 94, HB 186, HB 193, HB 222, HB 372, HB 374, and **HB 463** delivered to the Senate and signed by the President. Delivered to the Governor on February 28, 2000, at 4:39 p.m.

Orders of the Day (Continued)

HB 5 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 5** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 28 , 2000 roll call on **HB 5** - Appendix.)

HB 5 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 5** was passed be reconsidered and said motion be placed on the table. Agreed.

SCR 15 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SCR 15** be adopted.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 28, 2000 roll call on **SCR 15** - Appendix.)

SCR 15 was adopted.

Representative Bruce moved that the vote by which **SCR 15** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 476, with Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of Committee Amendment No. 1 to **HB 476**. Agreed.

Representative Geveden moved the adoption of Committee Amendment No. 2 to **HB 476**. Agreed.

Representative Geveden moved that **HB 476**, as amended, be passed.

On the roll call the vote was: **Yeas 83, Nays 11**. (See February 28, 2000 roll call on **HB 476** - Appendix.)

HB 476, as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 476**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 511, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 511** be passed.

Representative Stumbo moved the adoption of Floor Amendment No. 1 to **HB 511**. Agreed.

Representative Wayne moved that **HB 511**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See February 28, 2000 roll call on **HB 511** - Appendix.)

HB 511, as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 511**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 100 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Worthington moved that **HJR 100** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 28, 2000 roll call on **HJR 100** - Appendix.)

HJR 100 was adopted.

Representative Worthington moved that the vote by which **HJR 100** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 692, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of Floor Amendment No. 1 to **HB 692**. Agreed.

Representative Cherry moved that **HB 692**, as amended, be passed.

On the roll call the vote was: **Yeas 93, Nays 4**. (See February 28, 2000 roll call on **HB 692** - Appendix.)

HB 692, as amended, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 692**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **SB 105** be passed.

On the roll call the vote was: **Yeas 89, Nays 7**. (See February 28 , 2000 roll call on **SB 105** - Appendix.)

SB 105 was passed and the title agreed to.

Representative Webb moved that the vote by which **SB 105** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 106, HB 108, HB 110, HB 194, HB 218, HB 219, HB 236, HB 376, HB 404, HCR 34, HCR 45, HJR 41, HJR 42, HJR 59,** and **HJR 66** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -5:25 p.m.)

Orders of the Day (Continued)

HB 474, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved the adoption of the Committee Substitute to **HB 474**. Agreed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 474**. Agreed.

Representative Nunn moved that **HB 474**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 8**. (See February 28, 2000 roll call on **HB 474** - Appendix.)

HB 474, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Nunn moved that the vote by which **HB 474**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 702 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 702** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 28 , 2000 roll call on **HB 702** - Appendix.)

HB 702 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 702** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 347, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crenshaw moved the adoption of the Committee Substitute to **HB 347**. Agreed.

Representative Crenshaw moved that **HB 347**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 28, 2000 roll call on **HB 347** - Appendix.)

HB 347, by way of Committee Substitute, was passed and the title agreed to.

Representative Crenshaw moved that the vote by which **HB 347**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 543, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of the Committee Substitute to **HB 543**. Agreed.

Representative Moberly moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 543**. Agreed.

Representative Moberly moved that **HB 543**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See February 28, 2000 roll call on **HB 543** - Appendix.)

HB 543, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 543**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that the rules be suspended that when the House adjourns this day, it does so by voice vote. Agreed.

Representative Stumbo moved that the rules be suspended that when the House adjourns this day, it does so until 2:00 p.m., February 29, 2000. Agreed.

Representative Stumbo moved that the three day posting requirement be waived on **HB 839**. Agreed.

Representative Stumbo moved that **SCR 39** be reassigned to the Committee on Health and Welfare. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 876, by Representative Sims: AN ACT relating to adoption.

HB 877, by Representatives Sims, Weaver, Jenkins, Bather, Cave, Kerr, Colter, Scott, J. Adams, L. Belcher, Hoffman, and Lee: AN ACT changing the classification of the City of Horse Cave, in Hart County.

HB 878, by Representatives Johns, Gray, Jenkins, Jordan, and Hoffman: AN ACT relating to state employees.

HB 879, by Representative Jenkins: AN ACT relating to arson and related offenses.

HB 880, by Representatives Wayne, Heleringer, Marzian, and Stein: AN ACT relating to the death penalty.

HB 881, by Representative D. D. Butler: AN ACT relating to real estate sales associates.

HB 882, by Representative D. D. Butler: AN ACT relating to motor vehicle use tax.

HB 883, by Representative Stein: AN ACT relating to scholarships.

HB 884, by Representative F. Rasche: AN ACT relating to education paperwork requirements.

HB 885, by Representative D. Butler: AN ACT relating to racing personnel.

HB 886, by Representative D. Butler: AN ACT relating to optometrists.

HB 887, by Representatives D. Butler and Damron: AN ACT relating to state purchasing.

HB 888, by Representative Nunn: AN ACT relating to occupational therapy.

HB 889, by Representative Simpson: AN ACT relating to the vacant property review commission.

HB 890, by Representative Richards: AN ACT relating to the ability of fiscal court to tax District Court, and Circuit Court filing fees and costs, in both civil and criminal cases, and sheriff's fees.

HB 891, by Representative A. Arnold: AN ACT relating to agriculture.

HB 892, by Representative Stumbo: AN ACT relating to coal taxes.

HB 893, by Representative Simpson: AN ACT relating to county judges/executive.

HB 894, by Representative Stacy: AN ACT relating to contracts.

HB 895, by Representatives J. Adams, Yonts, and Bruce: AN ACT relating to the purchase of wholesale electric power by municipal electric utilities.

HB 896, by Representative Richards: AN ACT relating to the establishment of a program to encourage retirees to make their homes in Kentucky.

HB 897, by Representatives Weaver and L. Clark: AN ACT relating to utilities and affiliates of utilities.

HB 898, by Representative Weaver: AN ACT relating to fish and wildlife conservation.

HB 899, by Representative Weaver: AN ACT relating to the Department of Fish and Wildlife Resources Commission.

HB 900, by Representative Barrows: AN ACT relating to telecommunications.

HB 901, by Representative Geveden: AN ACT relating to the Kentucky Information Highway.

HB 902, by Representative Geveden: AN ACT relating to economic development.

HB 903, by Representative Palmer: AN ACT relating to municipal colleges.

HB 904, by Representative Palmer: AN ACT relating to utilities.

HB 905, by Representative C. Belcher: AN ACT relating to camping fees.

HB 906, by Representative Anderson: AN ACT relating to local government taxation.

HB 907, by Representative Anderson: AN ACT relating to diabetes mellitus.

HB 908, by Representative Anderson: AN ACT relating to property tax.

HB 909, by Representative Kerr: AN ACT relating to city annexation.

HB 910, by Representative Haydon: AN ACT designating the official state bourbon festival.

HB 911, by Representatives Haydon and Ausmus: AN ACT relating to excise taxes.

HB 912, by Representative Haydon: AN ACT relating to economic development.

HB 913, by Representative Crenshaw: AN ACT relating to restoration of voting rights for convicted felons.

HCR 127, by Representatives Fischer, Walton and Draud: A CONCURRENT RESOLUTION creating the Task Force on School Finance.

HJR 128, by Representative Yonts: A JOINT RESOLUTION naming the "Robert L. Draper Way" in Muhlenberg County.

HJR 129, by Representatives Bather and Stumbo: A JOINT RESOLUTION creating the Task Force on Bridging the Technology Gap and making and appropriation therefor.

HR 130, by Representatives Collins, Jenkins, Gray, Childers, Bruce, Adkins, Stacy, Scott, and Alexander: A RESOLUTION urging the Federal Surface Transportation Board to reject the application to combine the Burlington Northern Santa Fe and the Canadian National rail systems.

HJR 131, by Representatives Ballard and Gooch: A JOINT RESOLUTION directing the Transportation Cabinet to rename a portion of Kentucky Route 260 in Hopkins County the "Veterans Memorial Highway."

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Small Business: **HB 758**

Appropriations and Revenue: **HB 142, HB 324, HB 390, HB 405, HB 488, HB 500, HB 538, HB 550, HB 564, HB 593, HB 611, HB 621, HB 640, HB 747, HB 749, SB 123**

Health and Welfare: **HCR 119**

Economic Development and Tourism: **HB 811, SB 110**

The following Bill has been withdrawn from Committee consideration:

Economic Development and Tourism: **HB 651**

Report of Committees

The Committee on Rules reported that **HB 603, HB 663, HB 725, HB 116, HB 415, HB 522, HB 549, HB 551, HB 568, HB 584, HB 608, HB 619, HB 623, HB 656, HB 662, HB 665, HB 85, HB 327, HB 308, HB 361,** and **HB 545** have been posted for passage in the Orders of the Day for February 29, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 178, HB 437, HB 439, HB 504, HB 706, HB 739**

Motions, Petitions and Communications (Continued)

Representative Marzian moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Marzian moved the adoption of the following **HR 109**:

HR 109, A RESOLUTION adjourning the House of Representatives in loving memory and honor of Glenn Alexander Price.

With deepest respect and admiration, we pay homage and tribute to Glenn Alexander Price, and we pause in silent reverence for his soul.

WHEREAS, Glenn Alexander Price was born on October 30, 1908, a native of Gaston County, North Carolina, and longtime resident of Louisville, Jefferson County, Kentucky, and he traversed these earthly bounds on February 13, 2000; and

WHEREAS, Glenn Alexander Price was the loving son of the late James Doyle Price and Janie Vance Price; he was the loving brother of a sister, Helen Harwood of Leesburg, Florida; he was the devoted husband of the late Mary Alice Higdon; and he was the adored father of a son, Glenn A. Price, Jr. of Louisville, Kentucky, and two daughters, Barbara Ann Epperheimer of Lenexa, Kansas, and Susan Ellen Spalding of Lexington, Kentucky; and he was the proud grandfather of seven grandchildren and seven great-grandchildren; and

WHEREAS, Glenn Alexander Price, upon his graduation in 1929 from Davidson College in North Carolina, was commissioned a Second Lieutenant in the United States Army Reserves. He served his country with distinction in the Army Air Corps Signal Corp from 1940 to 1946, being assigned to the European theater of operations during and after World War II, where he was awarded the Bronze Star in recognition of his work in building communications networks, and upon separation from active duty, he continued to serve in the United States Army Reserves until retiring in 1968 with the rank of Colonel; and

WHEREAS, Glenn Alexander Price was a long time executive with Southern Bell and South Central Bell Telephone Companies, retiring in 1973 after 44 years of service in Owensboro, Paducah, Henderson, and Louisville, and holding the positions of District Plant Manager, State Personnel Relations Supervisor, State Construction Supervisor, Louisville Construction Supervisor, and Division Plant Supervisor; and

WHEREAS, Glenn Alexander Price, after retirement from Southern Bell and South Central Bell Telephone Companies, embarked on a third career by enrolling at the University of Louisville, where in 1976, he proudly received a Masters of Science degree in Community Development on the same day that his son, Glenn A. Price, Jr., received his Juris Doctor; and

WHEREAS, Glenn Alexander Price will be remembered as an active and involved citizen of the Jefferson County community where he was a member of numerous organizations and was involved in many public service activities; he was president of the Kentucky Chapter of the Telephone Pioneers of America; he was volunteer Director of Communications at the Kentucky Civil Defense headquarters; he was Mayor of the City of Kingsley; he was Chairman of the Jefferson County Government Conference, an organization of small cities in Jefferson County; he was a member of the Morton-Wyatt Task Force to merge Louisville and Jefferson County governments; he was a member of the Metropolitan Area Zoning Commission; he was Executive Director of Neighborhood Organizations in Support of the Environment; he was Treasurer of Strategies for Environmental Control; and he was the first lobbyist for the Kentucky Conservation Commission where he was a thoughtful and responsible advocate for strengthening environmental legislation in the Commonwealth; and

WHEREAS, Glenn Alexander Price was a devout member of St. Mark's Episcopal Church, and he was also a member of Christ Church Cathedral and St. Alban's Episcopal Church; and

WHEREAS, the passing of Glenn Alexander Price has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express its profound sense of sorrow upon the passing of Glenn Alexander Price, and extends to his family and many friends its most heartfelt sympathy.

Section 2. The passion, dedication, intelligence, and social consciousness Glenn Alexander Price brought to this Commonwealth will never be forgotten, and his influence will continue.

Section 3. When the House of Representatives adjourns this day, it does so in loving memory and honor of Glenn Alexander Price.

Section 4. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mr. Glenn A. Price, Jr., 2335 Village Drive, Louisville, Kentucky 40205.

There being no objection **HR 109** was adopted.

Representative Ford moved that the rules be suspended to act upon a Legislative Citation. Agreed.

Representative Ford moved the adoption of **Legislative Citation No. 76**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Herbert A. Coffey and respectfully joins with Representative Danny Ford in expressing its deepest sympathy to his beloved wife, Dorothy Livesay Coffey; his cherished daughter, Judy Hansel, his devoted siblings, Willis Coffey, Bill Coffey, Donald Coffey, Janie Ruth Smith, Kathleen Machal, Barbara Faye Hestletine; his cherished grandson, Patrick Hansel; his stepchildren, Gregory Stallings, Steven Stallings, Thomas Stallings and Vicki Stallings, two step-grandchildren, Timothy and Austin Stallings; and all who share in the great loss on the passing of this fine and esteemed citizen. Born in Rockcastle County, the son of the late Robert and Sallie Livesay Coffey, he was preceded in death by a beloved son, Jeffery Coffey, by a brother Earl Coffey, and by a step-grandson, Joshua Stallings. Following his service in the United States Army, he was a highly regarded merchant and bank teller and was a devoted member of the Bible Baptist Church. Honored and remembered on this day for his many and generous contributions to his family and community, Herbert A. Coffey will be deeply missed by all those whose lives were touched by his presence. Done in Frankfort, this twenty-eighth day of February, in the year two thousand.

Legislative Citation No. 76 was adopted without objection.

Representative A. Arnold moved that the rules be suspended to act upon a Resolution. Agreed.

Representative A. Arnold moved the adoption of the following **HR 125**:

HR 125, A RESOLUTION adjourning the House of Representatives in loving memory and honor of C. E. "Gravy" Bush.

With deepest respect and admiration, we pay homage and tribute to C. E. "Gravy" Bush, and we pause in silent reverence for his soul.

WHEREAS, C. E. "Gravy" Bush was born on September 23, 1915, a native of Lee County, Kentucky, and he traversed these earthly bounds on February 13, 2000; and

WHEREAS, C. E. "Gravy" Bush was the loving son of the late W. L. and Edna Townsend Bush; he was the devoted husband of Edna Booth Bush; he was the loving father of three daughters, Jennie Murray of Huntsville, Alabama, Brenda Campbell of Zachariah, Kentucky, and Dixie Bumgardner of Stanton, Kentucky; and he was the proud grandfather of six grandchildren, Shawn Kelly Campbell, Roderick Lafay Murray, III, Taylor Bush Murray, Shannon Campbell Mattingly, William Ryan Campbell, and Sarah Lyndsey Bumgardner; and two great-grandchildren, Cody Kasiah Campbell and Corey Campbell Mattingly; and

WHEREAS, C. E. "Gravy" Bush was an esteemed citizen of his community where he was a member of the Kentucky River Area Development District; a past president of the Natural Bridge Park Association; Democratic Chairman of Lee County; and he was listed in Who's Who in Kentucky in 1974; and

WHEREAS, C. E. "Gravy" Bush was an independent oil producer, pioneering the oil recovery experiment known as water flooding in Lee, Wolfe, and Powell counties during the early 1950's; he was on a research team that developed the first ejection seat for aircraft; he was author of the book, "Townsend Mountain," and he wrote articles for the Three Forks "Tradition"; and

WHEREAS, C. E. "Gravy" Bush was a devout member of the Torrent First Church of God where his funeral service was held on Wednesday, February 16, 2000; the Masonic Lodge #711 in Zachariah; and the Oleika Shrine Temple; and

WHEREAS, the passing of C. E. "Gravy" Bush has left a void that will be difficult to fill, and he is mourned across the length and breadth of the Commonwealth;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body does hereby express it profound sense of sorrow upon the passing of C. E. "Gravy" Bush, and extends to his family and many friends its most heartfelt sympathy.

Section 2. When the House of Representatives adjourns this day, it does so in loving memory and honor of C. E. "Gravy" Bush.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Mrs. Edna Townsend Bush, 641 Highway 1036, Zachariah, Kentucky 31301.

There being no objection **HR 125** was adopted.

Representative Callahan moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Callahan moved the adoption of the following **HR 115**:

HR 115, A RESOLUTION proclaiming March 13 to March 17, 2000, to be "Teach Census Week," and requesting the Kentucky Department of Education to promote the participation of Kentucky schools in the "Census in Schools" program.

WHEREAS, Census 2000, conducted by the United States Census Bureau, will have a profound impact on the lives and prosperity of all citizens of Kentucky as we face the challenges and opportunities of the 21st Century; and

WHEREAS, over one hundred and eighty-five billion dollars are allocated annually to state, local, and tribal governments based on the population, demographic, and socioeconomic data from the decennial United States Census; and

WHEREAS, these funds are used for a wide variety of purposes fundamental to the well-being of our nation and our Commonwealth, including education, housing and community development, healthcare for the elderly, job training, highway improvements, emergency services, and many other programs; and

WHEREAS, private businesses use census data to locate new industrial, service, and commercial enterprises, including manufacturing facilities, retail outlets, apartment and home developments, hotels, restaurants, shopping centers, banks, and other commercial centers that create job opportunities and enhance the quality of life for Kentucky citizens; and

WHEREAS, the Commonwealth of Kentucky and the cities and counties of the Commonwealth use census information to assist in promoting judicious long-range planning to determine the appropriate locations for schools, highways, libraries, public transportation systems, police and fire departments, hospitals, and other public facilities and services vital to the well-being of the Commonwealth and its residents; and

WHEREAS, population, demographic, and socioeconomic data from Census 2000 will assist the General Assembly in the coming decade to prepare new legislative initiatives, and to effectively allocate state resources to areas of greatest need; and

WHEREAS, the United States Census Bureau has developed a "Census in Schools" program in conjunction with Census 2000 to enlist the support of elementary and secondary teachers and principals in encouraging students and their parents to recognize the importance of being counted in Census 2000, and is providing lesson plans and teaching materials to all teachers and principals who request them; and

WHEREAS, it is critical for each member of the General Assembly to actively encourage all constituents to participate and be counted in Census 2000;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. This honorable body declares the week of March 13 to March 17, 2000, to be "Teach Census Week."

Section 2. The Senate requests the Kentucky Department of Education to encourage all schools in Kentucky to teach a lesson on the theme of "Census 2000 and its Importance" during the week of March 13 to March 17, 2000.

Section 3. To encourage school participation in the "Census in Schools" program, the Kentucky Department of Education is urged to make use of, and make all schools aware of, the on-line materials provided at the "Census in Schools" internet site-http://www.census.gov/dmd/www/schindex.htm.

Section 4. The Clerk of the Senate is directed to transmit a copy of this Resolution to the Commissioner of Education, Capitol Plaza Tower, 500 Mero Street, Frankfort, Kentucky 40601.

There being no objection **HR 115** was adopted.

Representative Draud moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Draud moved that he be recorded as voting "yea" on **HB 347**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johns moved that she be recorded as voting "yea" on **HB 474**. Agreed.

Representative Cox moved that House Floor Amendment No. 1 and House Floor Amendment No. 2 Title to **SB 68** be withdrawn. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 506**, by Representative Vincent:

On page 1, line 18, by deleting "***and the flag of Kentucky***"; and

On page 1, line 22, by deleting "***36 U.S.C. sec. 170 to 177***", and inserting "***4 U.S.C. secs. 1 to 3, and 4 U.S.C. secs. 5 to 9***" in lieu thereof.

Floor Amendment No. 1 to the Committee Substitute to **HB 437**, by Representative Stein:

On page 48, lines 9 and 10, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time hiring supplements***";

On page 48, line 17, by deleting "***additional salary compensation***" and inserting in lieu thereof "***one-time supplement***";

On page 48, line 18, by deleting "***the maximum compensation***" and inserting in lieu thereof "***a supplement***";

On page 48, lines 20 and 21, by deleting "***additional compensation***" and inserting in lieu thereof "***a supplement***"; and

On page 49, line 15, after the period by inserting "***Payments to any teacher under this subsection by a local district are intended and presumed to be for and in consideration of services rendered and for the benefit of the common schools and the payments shall not affect the eligibility of any school district to share in the distributions of funds from the public school funds as established in KRS Chapter 157.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 437**, by Representative Marzian:

On page 17, by inserting between lines 8 and 9 the following:

"***(f) The provisions of paragraphs (a), (b), and (e) of this subsection shall not apply to any teacher who, on July 1, 2001, holds a valid Kentucky teaching certificate that authorizes the teacher to teach in kindergarten through the eighth grade. Possession of a kindergarten through the eighth grade Kentucky teaching certificate establishes the adequacy of the teacher's preparation, qualifications, and training to teach all content areas in grades five (5) through eight (8).***".

Floor Amendment No. 3 to the Committee Substitute to **HB 437**, by Representative Marzian:

On page 17, between lines 8 and 9, by inserting the following:

"***(f) The provisions of paragraphs (a), (b), and (e) of this subsection, shall not apply to any teacher who on July 1, 2002, is teaching in grades five (5) through eight (8) and who holds a valid Kentucky teaching certificate that authorizes the teacher to teach in kindergarten through the eighth grade. Possession of a certificate to teach in kindergarten through eighth (8) grade shall establish the adequacy of a teacher's preparation, qualifications, and training to teach all content areas in grades five (5) through eight (8).***"

Floor Amendment No. 2 to the Committee Substitute to **HB 390**, by Representative Johns:

On page 3, line 8 after "***insurer***" and before "***its***" by inserting a comma;

On page 5, after line 9 by adding the following:

"***(3) A private review agent that operates solely under contract with the federal government for utilization review or patients eligible for hospital services under Title XVIII of the Social Security Act shall not be subject to the registration requirements set forth in Sections 4, 5, and 7 of this Act.***";

On page 5, line 20 after "***decision***" and before "***to***" by deleting "***(determination)***";

On page 6, line 22 after "***Provide***" and before "***to***" by deleting "***responses***" and by inserting in lieu thereof "***decisions***";

On page 10, line 17 after the semicolon by deleting "***and***";

On page 10, line 24 after "***Act***" and before the period by inserting "***; and***"

On page 10, after line 24 by adding

"***(d) Establishing fees for applications and renewals in an amount sufficient to pay the administrative costs of the program and any other costs associated with carrying out the provisions of Section 1, 2, 3, 4, 5, 6, 7, and 8 of this Act***";

On page 11, line 15 by deleting "***currently***" and after "***KRS***" by inserting "***211.461 to 211.466, prior to the effective date of this Act,***" and by deleting "***Chapter 311***";

On page 12, line 26 after "***decision***" and before the period by inserting "***applicable to requests for review relating to matters set forth in subsection (1)(b) of this section***";

On page 14, line 11 after "***provide***" and before "***to***" by deleting "***responses***" and by inserting in lieu thereof "***decisions***";

On page 20, line 5 after the period by adding "***The department shall contract with no less than two (2) independent review entities.***";

On page 43, after line 6 by adding

"Section 34. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654 shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26)[~~A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.~~

~~(27)~~] Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

27[~~(28)~~] Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(28)[~~(29)~~] Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(29)[~~(30)~~] Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(30)[~~(31)~~] Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).";

On page 43, line 7 by deleting "34" and inserting in lieu thereof "35"; and

On page 43, after line 14 by adding:

"311.131 Definitions.
311.132 Certificate required for private review agent -- Exceptions.
311.133 Administrative regulations.
311.134 Requirements for health benefit program covering hospital and medical benefits and utilization review thereof.
311.135 Application for a certificate.
311.136 Expiration and renewal of certificate.
311.137 Revocation or denial of certificate.
311.138 Hearing and appeal.
311.139 Confidentiality of individual medical records".

Floor Amendment No. 1 to the Committee Substitute to **HB 439**, by Representative Heleringer:

On page 3, line 11, after "2007" and before "." insert the following language

"*; provided however, that judges defeated for reelection who have opted to participate in the Senior Status Program for Special Judges shall not serve as a Senior Status Special Judge in the jurisdiction in which they were defeated*"

Floor Amendment No. 6 to the Committee Substitute to **HB 1**, by Representative Palmer:

On page 3, line 23, by deleting "*and*"; and

On page 3, line 24, after "*processor*" by inserting the following:

"*; and*

(19) "Bottler" means a distributor who engages in the production or distribution of beverages in both refillable and nonrefillable containers"; and

On page 6, between lines 23 and 24, by inserting the following:

"*(4) If a redemption center mistakenly accepts for redemption a refillable container, the redemption center shall segregate the refillable container from recyclable containers and shall immediately notify the bottler, if the bottler can be reasonably identified, of the refillable container. The bottler shall have the right, within a reasonable period of time, to pick up the refillable container from the redemption center upon payment to the center of the deposit normally charged by the bottler for the container.*"; and

On page 8, between lines 1 and 2, by inserting the following:

"*(5) Every bottler shall be entitled to a credit against the payment established in subsection (1) of this section in the amount of five cents ($0.05) for every refillable container of four (4) ounces up to twenty (20) ounces sold or transferred to a dealer or sold directly to a consumer, within time periods determined by the authority.*

(6) Bottlers subject to the provisions of subsection (5) of this section shall claim credit in a manner and within time periods determined by the authority. The credit shall be claimed in a form that the authority may prescribe by administrative regulation. The form shall require, at a minimum, the following information:

(a) The name, address, and telephone number of the bottler;

(b) A statement of the brand or description of the beverage product sold by the bottler;

(c) A certification by an authorized agent or officer of the bottler of the following:

1. The number of containers sold or transferred to a dealer, or sold directly to the public, within the specified time period; and

2. The number of refillable containers sold or transferred to a dealer, or sold directly to the public, within the specified time period; and

(d) A statement showing the calculation of the minimum refund value, as defined in this section, reduced by the amount of the credit claimed under this section. If the calculation shows a negative balance owed by the bottler to the authority, the bottler shall carry the negative balance forward to the following reporting period. The bottler shall not be entitled to any refund from the authority."; and

On page 9, line 7, after "*announcements*" by inserting the following:

"*, a reasonable portion of which shall inform the public of the environmental and other benefits of the use of refillable containers,*"; and

On page 10, line 21, after "*Act.*" by inserting the following:

"*Redemption centers shall not be entitled to receive the handling fee for any refillable container mistakenly redeemed, but shall be entitled to retain any difference between the minimum refund value reimbursed by the center and the deposit paid to the center by the bottler of the refillable container, according to Section 6 of this Act.*

Floor Amendment No. 1 to **SB 105**, by Representative Marzian:

On page 1, after line 20 by adding the following new language

"*(6) Any proposed wildlife management plan shall be submitted for public notice and comment ninety (90) days prior to the anticipated start date. The Department of Parks shall respond, in writing, to any objections or challenges by the public and shall not begin the project until no additional objections are noted.*

(7) All nonlethal wildlife managment programs will be examined and considered prior to the consideration of any lethal program for implementation in any state park.

(8) If the management plan deems it necessary to enter a wildlife sanctuary and take, damage, injure, kill, destroy, or unduly disturb the wildlife therein, only the Department of Parks or the Department of Fish and Wildlife Resources officials shall be authorized to carry out the plan.

(9) For the purposes of public safety, at no time shall a wildlife management plan be proposed for Kentucky state parks that authorizes the use of any type of traps intended for the killing of wildlife. Only live traps, for the purpose of relocation or treatment, may be utilized. The use of dogs for hunting or training purposes shall also be prohibited."

Floor Amendment No. 1 to the Committee Substitute to **HB 522**, by Representative Bruce:

On page 1, beginning on line 8, after the word "*Each*" by inserting "*professional or administrative employee of the planning commission*" and by deleting the words "*planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants,*"; and

On page 1 line 25 after the word "*Each*" by inserting "*professional or administrative employee of the planning commission*" and beginning on page 1, line 25, and continuing to page 2, line 1 by deleting the words "*planning professional, zoning administrator, and administrative official, and each planning professional's deputies and assistants,*"; and

On page 2, beginning on line 17 after the word "*member*" by inserting "*, and professional or administrative employee of the planning commission*" and by deleting the words "*full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants*"; and

On page 3, beginning on line 9 after the word "*member*" by inserting "*, and professional or administrative employee of the planning commission*" and by deleting the words "*full time planning professional, zoning administrator, administrative official, and planning professional's deputies or assistants*"; and

On page 4, beginning on line 3 after the word "*employ*" by inserting " *any professional or administrative employee of the planning commission*" and by deleting the words "*planning professional, zoning administrator, administrative official, or a planning professional's deputy or assistant,*"; and

On page 4, beginning on line 6 by deleting the words "*in the capacity of a planning professional, zoning administrator, administrative official, or planning professional's deputy or assistant*"; and

On page 4, after line 8 by adding:

"*(9) As used in this section, "professional or administrative employee" means, but is not limited to: planning professionals, zoning administrators, administrative officials, attorneys, and planning professionals' deputies and assistants. The term shall not include any clerical or custodial employees, or any persons employed in a similar capacity.*

Floor Amendment No. 1 to **HB 643**, by Representative Jenkins:

On page 4, line 5, after the period "." by inserting the following:

"*No generator of waste subject to the assessment under this subsection shall be assessed more than fifty thousand dollars ($50,000) annually.*".

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under the rules previously suspended:

HB 446:	Representative Marcotte
HB 543:	Representative Coleman
HB 706:	Representatives J. Adams, Stewart
HB 755:	Representative L. Clark
HB 825:	Representatives Marcotte, Scott
HB 879:	Representative Palumbo
HB 887:	Representative Lee
HJR 5:	Representative Miller

Announcements

The following meeting was announced:

Majority Caucus, upon adjournment, February 29, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., February 29, 2000.

The motion that the House adjourn until 2:00 p.m., February 29, 2000, was adopted by voice vote.

FEBRUARY 29, 2000

THIRTY SEVENTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Alan Sorem, South Frankfort Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representatives Cox and Ford.

Representative Ballard moved that the absent members be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of February 28, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 109**. (Time: 2:10 p.m.)

Introduction of Bills and Resolutions

HB 914, by Representative Ballard: AN ACT relating to parking regulations.

HB 915, by Representative Ballard: AN ACT relating to loads spilling on highways.

HB 916, by Representatives Upchurch, Graham, Ford, T. Turner, and Feeley: AN ACT relating to the striking-off of county territory.

HB 917, by Representatives T. Turner and Upchurch: AN ACT relating to retirement.

HB 918, by Representative Wilkey: AN ACT relating to the repayment of student loans of assistant attorneys general, assistant Commonwealth's attorneys, assistant county attorneys, and public defenders, and creating a method of payment therefor.

HB 919, by Representatives Wilkey and Lindsay: AN ACT relating to crimes and punishments.

HB 920, by Representatives Wilkey and Lindsay: AN ACT relating to fines, costs, fees, and other court-generated revenues and their disposition.

HJR 132, by Representatives Ford, Cave, T. Turner, Upchurch, Baugh, Vincent, Walton, Siler, D. D. Butler, L. Belcher, Miller, Nunn, Crimm, Polston, Fisher, Cornett, Weaver, Anderson, Haydon, Tapp, Ausmus, J. Turner, Stewart, DeWeese, Heleringer, Marcotte, Draud, Feeley, Cox, Rader, Allen, Colter, Treesh, Napier, Ratliff, Branham, and Hoover: A JOINT RESOLUTION relating to the celebration of the bicentennial of Abraham Lincoln's birth providing for the creation of an Abraham Lincoln Bicentennial Task Force and making an appropriation therefor.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 891**

Appropriations and Revenue: **HB 867, HB 868, HB 882, HB 892, HB 906, HB 908, HB 911, HJR 129**

Banking and Insurance: **HB 875**

Economic Development: **HB 902**

Education: **HB 873, HB 883, HB 884, HB 903, HCR 127, SB 143**

Health and Welfare: **HB 886, HB 888, HB 907**

Judiciary: **HB 874, HB 876, HB 879, HB 880, HB 890, HB 913, HCR 126**

Licensing and Occupations: **HB 881, HB 885, HB 912**

Local Government: **HB 869, HB 877, HB 889, HB 893, HB 909**

Natural Resources and Environment: **HB 872, HB 898, HB 899**

Seniors, Military Affairs and Public Safety: **HB 896**

State Government: **HB 871, HB 878, HB 887, HB 894, HB 900, HB 901, HB 905, HB 910**

Tourism Development and Energy: **HB 895, HB 897, HB 904**

Transportation: **HB 870, HJR 128, HR 130, HJR 131**

Report of Committees

The Committee on Health and Welfare reported **HB 421, HB 452,** with Committee Substitute attached thereto, **HB 567** with Committee Substitute attached thereto, **HB 570, HB 575, HB 598,** with Committee Substitute attached thereto, and **HB 676** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 421, AN ACT relating to home health care.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act unless the context requires otherwise:

(1) "Home health aide" means an individual who is hired to perform home health aide services.

(2) "Home health agency" means a public agency or private organization, or a subdivision of such an agency or organization which is licensed as a home health agency by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board and is certified to participate as a home health agency under Title XVIII of the Social Security Act.

(3) "Home health aide services" means those services provided by a home health aide and supervised by a registered nurse which are directed towards the personal care of the patient. Such services shall include but not be limited to the following:

(a) Helping the patient with bath and care of mouth, skin, and hair;

(b) Helping the patient to the bathroom or in using a bedpan;

(c) Helping the patient in and out of bed and assisting with ambulation;

(d) Helping the patient with prescribed exercises which the patient and home health aide have been taught by appropriate professional personnel;

(e) Assisting with medication ordinarily self-administered that has been specifically ordered by a physician;

(f) Performing incidental household services as are essential to the patient's health care at home, if these services would have been performed if the patient was in a hospital or skilled nursing facility; and

(g) Reporting changes in the patient's condition or family situation to the professional nurse supervisor.

(4) "Nurse aide" means an individual, including a nursing student, medication aide, and a person employed through a nursing pool, who provides nursing or nursing related services to a resident in a nursing facility or home health agency, excluding:

(a) An individual who is a licensed health professional;

(b) A volunteer who provides the nursing or nursing-related services without monetary compensation; and

(c) A person who is hired by the resident or family to sit with the resident and who does not perform nursing or nursing-related services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health Services shall establish an abuse registry to include information pertaining to findings of resident neglect or abuse, and misappropriation of resident property by a nurse aide or home health aide. The abuse registry may be created by expanding or modifying the existing nurse aide abuse registry to include home health aides as permitted by 42 C.F.R. 483.156.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

Home health agencies shall not be operated by or employ any person who is listed on the expanded or modified nurse aide abuse registry as permitted by 42 C.F.R. 483.156. The expanded or modified nurse aide abuse registry shall be checked prior to the employment of a home health aide by home health agencies. The home health agency shall document the check of the

expanded or modified nurse aide abuse registry for each prospective home health aide.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

The Cabinet for Health Services shall promulgate administrative regulations in accordance with KRS Chapter 13A that establish and maintain an abuse registry for nurse aides and home health aides. The cabinet shall also expand or modify the hearing and appeals procedure to include nurse aides and home health aides.

HB 452, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Abortion facility" means any place in which an abortion is performed;

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;

(3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

(4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;

(5) "Cabinet" means the Cabinet for Health Services;

(6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

  (a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

  (b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;

(7) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

(8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;

(9) ***"Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing facility care, and either assisted living units or personal care beds. A continuing care retirement community may establish one (1) bed at the nursing facility level of care for every four (4) independent living units, assisted living units, or personal care beds that it operates;***

(10) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;

(11)[~~(10)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;

(12)[~~(11)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons,

including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;

(13) "Independent living" means the provision of living units and supportive services including, but not limited to, laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation.

(14)[~~(12)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

(15)[~~(13)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;

(16)[~~(14)~~] "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices;

(17)[~~(15)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

(18)[~~(16)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;

(19)[~~(17)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet;

(20)[~~(18)~~] "Secretary" means the secretary of the Cabinet for Health Services;

(21)[~~(19)~~] "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(22)[~~(20)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility;

(23)[~~(21)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(24)[~~(22)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation;

(25)[~~(23)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;

(26)[~~(24)~~] "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(27)[~~(25)~~] "To establish" means to construct, develop, or initiate a health facility;

(28)[~~(26)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(29)[~~(27)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; ***health facilities and health services that shall be exclusively limited to on-campus residents of a certified continuing care retirement community;*** the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts, except any physician's office that meets the criteria set forth in KRS 216B.015(4);

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(4), or unless the physician's office is also an abortion facility as defined in KRS 216B.015, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to

change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

(8) Notwithstanding any other provision of law, a continuing care retirement community's nursing facility beds shall not be certified as Medicaid eligible unless a certificate of need has been issued authorizing applications for Medicaid certification.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations according to KRS Chapter 13A that set forth the procedures and requirements for obtaining a certificate of compliance for a continuing care retirement community.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) To be eligible for a certificate of compliance, a continuing care retirement community shall certify in writing to the cabinet and shall disclose in writing to each of its residents that:

(a) None of the health facilities or health services operated by the continuing care retirement community shall apply for or become certified for participation in the Medicaid program; and

(b) No claim for Medicaid reimbursement shall be submitted for any person for any health service provided by the continuing care retirement community.

(2) Admissions to continuing care retirement community nursing facility beds shall be exclusively limited to on-campus residents.

The Committee Substitute No. 1 to **HB 452** is as follows:

HB 452, AN ACT relating to continuing care retirement communities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 216B.015 is amended to read as follows:

Except as otherwise provided, for purposes of this chapter, the following definitions shall apply:

(1) "Abortion facility" means any place in which an abortion is performed;

(2) "Administrative regulation" means a regulation adopted and promulgated pursuant to the procedures in KRS Chapter 13A;

(3) "Affected persons" means the applicant; any person residing within the geographic area served or to be served by the applicant; any person who regularly uses health facilities within that geographic area; health facilities located in the health service area in which the project is proposed to be located which provide services similar to the services of the facility under review; health facilities which, prior to receipt by the agency of the proposal being reviewed, have formally indicated an intention to provide similar services in the future; the cabinet and third-party payors who reimburse health facilities for services in the health service area in which the project is proposed to be located;

(4) "Applicant" means any physician's office requesting a major medical equipment expenditure of one million five hundred thousand dollars ($1,500,000) or more after July 15, 1996, adjusted annually, or any person, health facility, or health service requesting a certificate of need or license;

(5) "Cabinet" means the Cabinet for Health Services;

(6) "Capital expenditure" means an expenditure made by or on behalf of a health facility which:

(a) Under generally accepted accounting principles is not properly chargeable as an expense of operation and maintenance or is not for investment purposes only; or

(b) Is made to obtain by lease or comparable arrangement any facility or part thereof or any equipment for a facility or part thereof;

(7) "Capital expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether an expenditure exceeds the expenditure minimum, the cost of any studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the improvement, expansion, or replacement of any plant or any equipment with respect to which the expenditure is made shall be included. Donations of equipment or facilities to a health facility which if acquired directly by the facility would be subject to review under this chapter shall be considered a capital expenditure, and a transfer of the equipment or facilities for less than fair market value shall be considered a capital expenditure if a transfer of the equipment or facilities at fair market value would be subject to review;

(8) "Certificate of need" means an authorization by the cabinet to acquire, to establish, to offer, to substantially change the bed capacity, or to substantially change a health service as covered by this chapter;

(9) ***"Continuing care retirement community" means a community that provides, on the same campus, a continuum of residential living options and support services to persons sixty (60) years of age or older under a written agreement. The residential living options shall include independent living units, nursing home beds, and either assisted living units or personal care beds;***

(10) "Formal review process" means the ninety (90) day certificate-of-need review conducted by the cabinet;

(11)[~~(10)~~] "Health facility" means any institution, place, building, agency, or portion thereof, public or private, whether organized for profit or not, used, operated, or designed to provide medical diagnosis, treatment, nursing, rehabilitative, or preventive care and includes alcohol abuse, drug abuse, and mental health services. This shall include, but shall not be limited to, health facilities and health services commonly referred to as hospitals, psychiatric hospitals, physical rehabilitation hospitals, chemical dependency programs, tuberculosis hospitals, skilled nursing facilities, nursing facilities, nursing homes, personal care homes, intermediate care facilities, family care homes, primary care centers, rural health clinics, outpatient clinics, ambulatory care facilities, ambulatory surgical centers, emergency care centers and services, ambulance providers, hospices, community mental health and mental retardation centers, home health agencies, kidney disease treatment centers and freestanding hemodialysis units, facilities and services owned and operated by health maintenance organizations directly providing health services subject to certificate of need, and others providing similarly organized services regardless of nomenclature;

(12)[~~(11)~~] "Health services" means clinically related services provided within the Commonwealth to two (2) or more persons, including, but not limited to, diagnostic, treatment, or rehabilitative services, and includes alcohol, drug abuse, and mental health services;

(13) "Independent living" means the provision of living units and supportive services including, but not limited to, laundry, housekeeping, maintenance, activity direction, security, dining options, and transportation.

(14)[~~(12)~~] "Major medical equipment" means equipment which is used for the provision of medical and other health services and which costs in excess of the medical equipment expenditure minimum. For purposes of this subsection, "medical equipment expenditure minimum" means one million five hundred thousand dollars ($1,500,000) beginning with July 15, 1994, and as adjusted annually thereafter. In determining whether medical equipment has a value in excess of the medical equipment expenditure minimum, the value of studies, surveys, designs, plans, working drawings, specifications, and other activities essential to the acquisition of the equipment shall be included;

(15)[~~(13)~~] "Nonsubstantive review" means an expedited review conducted by the cabinet of an application for a certificate of need as authorized under KRS 216B.095;

(16)[~~(14)~~] "Nonclinically-related expenditures" means expenditures for:

(a) Repairs, renovations, alterations, and improvements to the physical plant of a health facility which do not result in a substantial change in beds, a substantial change in a health service, or the addition of major medical equipment, and do not constitute the replacement or relocation of a health facility; or

(b) Projects which do not involve the provision of direct clinical patient care including, but not limited to, the following:

1. Parking facilities;
2. Telecommunications or telephone systems;
3. Management information systems;
4. Ventilation systems;
5. Heating or air conditioning, or both;
6. Energy conservation; or
7. Administrative offices;

(17)[~~(15)~~] "Party to the proceedings" means the applicant for a certificate of need and any affected person who appears at a hearing on the matter under consideration and enters an appearance of record;

(18)[~~(16)~~] "Person" means an individual, a trust or estate, a partnership, a corporation, an association, a group, state, or political subdivision or instrumentality including a municipal corporation of a state;

(19)[~~(17)~~] "Record" means, as applicable in a particular proceeding:

(a) The application and any information provided by the applicant at the request of the cabinet;

(b) Any information provided by a holder of a certificate of need or license in response to a notice of revocation of a certificate of need or license;

(c) Any memoranda or documents prepared by or for the cabinet regarding the matter under review which were introduced at any hearing;

(d) Any staff reports or recommendations prepared by or for the cabinet;

(e) Any recommendation or decision of the cabinet;

(f) Any testimony or documentary evidence adduced at a hearing;

(g) The findings of fact and opinions of the cabinet or the findings of fact and recommendation of the hearing officer; and

(h) Any other items required by administrative regulations promulgated by the cabinet;

(20)[~~(18)~~] "Secretary" means the secretary of the Cabinet for Health Services;

(21)[~~(19)~~] "State health plan" means the document prepared triennially, updated annually, and approved by the Governor;

(22)[~~(20)~~] "Substantial change in a health service" means:

(a) The addition of a health service for which there are review criteria and standards in the state health plan;

(b) The addition of a health service subject to licensure under this chapter; or

(c) The reduction or termination of a health service which had previously been provided in the health facility;

(23)[~~(21)~~] "Substantial change in bed capacity" means the addition, reduction, relocation, or redistribution of beds by licensure classification within a health facility;

(24)[~~(22)~~] "Substantial change in a project" means a change made to a pending or approved project which results in:

(a) A substantial change in a health service, except a reduction or termination of a health service;

(b) A substantial change in bed capacity, except for reductions;

(c) A change of location; or

(d) An increase in costs greater than the allowable amount as prescribed by regulation;

(25)[~~(23)~~] "To acquire" means to obtain from another by purchase, transfer, lease, or other comparable arrangement of the controlling interest of a capital asset or capital stock, or voting rights of a corporation. An acquisition shall be deemed to occur when more than fifty percent (50%) of an existing capital asset or capital stock or voting rights of a corporation is purchased, transferred, leased, or acquired by comparable arrangement by one person from another person;

(26)[~~(24)~~] "To batch" means to review in the same review cycle and, if applicable, give comparative consideration to all filed applications pertaining to similar types of services, facilities, or equipment affecting the same health service area;

(27)[~~(25)~~] "To establish" means to construct, develop, or initiate a health facility;

(28)[~~(26)~~] "To obligate" means to enter any enforceable contract for the construction, acquisition, lease, or financing of a capital asset. A contract shall be considered enforceable when all contingencies and conditions in the contract have been met. An option to purchase or lease which is not binding shall not be considered an enforceable contract; and

(29)[~~(27)~~] "To offer" means, when used in connection with health services, to hold a health facility out as capable of providing, or as having the means of providing, specified health services.

Section 2. KRS 216B.020 is amended to read as follows:

(1) The provisions of this chapter that relate to the issuance of a certificate of need shall not apply to abortion facilities as defined in KRS 216B.015; any hospital which does not charge its patients for hospital services and does not seek or accept Medicare, Medicaid, or other financial support from the federal government or any state government; assisted living residences; family care homes; state veterans' nursing homes; services provided on a contractual basis in a rural primary-care hospital as provided under KRS 216.380; community mental health centers for services as defined in KRS Chapter 210; primary care centers; rural health clinics; private duty nursing services licensed as nursing pools; group homes; end stage renal disease dialysis facilities, freestanding or hospital based; swing beds; special clinics, including, but not limited to, wellness, weight loss, family planning, disability determination, speech and hearing, counseling, pulmonary care, and other clinics which only provide diagnostic services with equipment not exceeding the major medical equipment cost threshold and for which there are no review criteria in the state health plan; nonclinically-related expenditures; ***nursing home beds that shall be exclusively limited to on-campus residents of a certified continuing care retirement community;***

the relocation of hospital administrative or outpatient services into medical office buildings which are on or contiguous to the premises of the hospital or the following health services provided on site in an existing health facility when the cost is less than six hundred thousand dollars ($600,000) and the services are in place by December 30, 1991: psychiatric care where chemical dependency services are provided, level one (1) and level two (2) of neonatal care, cardiac catheterization, and open heart surgery where cardiac catheterization services are in place as of July 15, 1990. The provisions of this section shall not apply to nursing homes, personal care homes, intermediate care facilities, and family care homes; or nonconforming ambulance services as defined by administrative regulation. These listed facilities or services shall be subject to licensure, when applicable.

(2) Nothing in this chapter shall be construed to authorize the licensure, supervision, regulation, or control in any manner of:

(a) Private offices and clinics of physicians, dentists, and other practitioners of the healing arts, except any physician's office that meets the criteria set forth in KRS 216B.015(4);

(b) Office buildings built by or on behalf of a health facility for the exclusive use of physicians, dentists, and other practitioners of the healing arts; unless the physician's office meets the criteria set forth in KRS 216B.015(4), or unless the physician's office is also an abortion facility as defined in KRS 216B.015, except no capital expenditure or expenses relating to any such building shall be chargeable to or reimbursable as a cost for providing inpatient services offered by a health facility;

(c) Dispensaries and first-aid stations located within business or industrial establishments maintained solely for the use of employees, if the facility does not contain inpatient or resident beds for patients or employees who generally remain in the facility for more than twenty-four (24) hours;

(d) Establishments, such as motels, hotels, and boarding houses, which provide domiciliary and auxiliary commercial services, but do not provide any health related services and boarding houses which are operated by persons contracting with the United States Veterans Administration for boarding services;

(e) The remedial care or treatment of residents or patients in any home or institution conducted only for those who rely solely upon treatment by prayer or spiritual means in accordance with the creed or tenets of any recognized church or religious denomination and recognized by that church or denomination; and

(f) On-duty police and fire department personnel assisting in emergency situations by providing first aid or transportation when regular emergency units licensed to provide first aid or transportation are unable to arrive at the scene of an emergency situation within a reasonable time.

(3) An existing facility licensed as skilled nursing, intermediate care, or nursing home shall notify the cabinet of its intent to change to a nursing facility as defined in Public Law 100-203. A certificate of need shall not be required for conversion of skilled nursing, intermediate care, or nursing home to the nursing facility licensure category.

(4) Notwithstanding any other provision of law to the contrary, dual-license acute care beds licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996, may be converted to nursing facility beds by December 31, 1996, without applying for a certificate of need. Any dual-license acute care beds not converted to nursing facility beds by December 31, 1996, shall, as of January 1, 1997, be converted to licensed acute care beds.

(5) Notwithstanding any other provision of law to the contrary, no dual-license acute care beds or acute care nursing home beds that have been converted to nursing facility beds pursuant to the provisions of subsection (3) of this section may be certified as Medicaid eligible after December 31, 1995, without the written authorization of the secretary.

(6) Notwithstanding any other provision of law to the contrary, total dual-license acute care beds shall be limited to those licensed as of December 31, 1995, and those with a licensure application filed and in process prior to February 10, 1996. No acute care hospital may obtain a new dual license for acute care beds unless the hospital had a licensure application filed and in process prior to February 10, 1996.

(7) Ambulance services owned and operated by a city government, which propose to provide services in coterminous cities outside of the ambulance service's designated geographic service area, shall not be required to obtain a certificate of need if the governing body of the city in which the ambulance services are to be provided enters into an agreement with the ambulance service to provide services in the city.

(8) Notwithstanding any other provision of law, a continuing care retirement community's nursing home beds shall not be certified as Medicaid eligible unless a certificate of need has been issued authorizing applications for Medicaid certification. The provisions of subsection (3) of this section notwithstanding, a continuing care retirement community shall not change the level of care licensure status of its beds without first obtaining a certificate of need.

Section 3. KRS 216B.040 is amended to read as follows:

(1) The cabinet shall have four (4) separate and distinct functions in administering this chapter:

(a) To approve or deny certificates of need in accordance with the provisions of this chapter, except as to those applications which have been granted nonsubstantive review status by the cabinet;

(b) To issue and to revoke certificates of need;

(c) To provide a due process hearing and issue a final determination on all actions by the cabinet to deny, revoke, modify, or suspend licenses of health facilities and health services issued by the cabinet; and

(d) To enforce, through legal actions on its own motion, the provisions of this chapter and its orders and decisions issued pursuant to its functions.

(2) The cabinet shall:

(a) Promulgate administrative regulations pursuant to the provisions of KRS Chapter 13A:

1. To establish the certificate of need review procedures, including but not limited to, application procedures, notice provisions, procedures for review of completeness of applications, and timetables for review cycles.

2. To establish criteria for issuance and denial of certificates of need which shall be limited to the following considerations:

a. Consistency with plans. Each proposal approved by the cabinet shall be consistent with the state health plan, and shall be subject to biennial budget authorizations and limitations, and with consideration given to the proposal's impact on health care costs in the Commonwealth. The state health plan shall contain a need assessment for long-term care beds, which shall be based on a statistically valid analysis of the present and future needs of the state as a whole and counties individually. The need assessment shall be applied uniformly to all areas of the state. The methodology shall be reviewed and updated on an annual basis. The long-term care bed need criteria in the state health plan or as set forth by the appropriate certificate of need authority shall give preference to conversion of personal care beds and acute care beds to nursing facility beds, so long as the state health plan or the appropriate certificate of need authority establishes a need in the affected counties and the proposed conversions are more cost-effective than new construction. The fact that the state health plan shall not address the specific type of proposal being reviewed shall not constitute grounds for disapproval of the proposal. ***Notwithstanding any other provision of law, the long-term care bed need criteria in the state health plan or as set forth by the appropriate certificate of need authority shall not consider, factor in, or include any continuing care retirement community's nursing home beds established under Sections 1, 2, 5, and 6 of this Act***;

b. Need and accessibility. The proposal shall meet an identified need in a defined geographic area and be accessible to all residents of the area. A defined geographic area shall be defined as the area the proposal seeks to serve, including its demographics, and shall not be limited to geographical boundaries;

c. Interrelationships and linkages. The proposal shall serve to accomplish appropriate and effective linkages with other services, facilities, and elements of the health care system in the region and state, accompanied by assurance of effort to achieve comprehensive care, proper utilization of services, and efficient functioning of the health care system;

d. Costs, economic feasibility, and resources availability. The proposal, when measured against the cost of alternatives for meeting needs, shall be judged to be an effective and economical use of resources, not only of capital investment, but also ongoing requirements for health manpower and operational financing;

e. Quality of services. The applicant shall be prepared to and capable of undertaking and carrying out the responsibilities involved in the proposal in a manner consistent with appropriate standards and requirements assuring the provision of quality health care services, as established by the cabinet;

f. Hospital-based skilled nursing, intermediate care, and personal care beds shall be considered by the cabinet in determining the need for freestanding long-term care beds.

(b) Conduct public hearings, as requested, in respect to certificate-of-need applications, revocations of certificates of need, and denials, suspensions, modifications, or revocations of licenses.

(3) The cabinet may:

(a) Issue other administrative regulations necessary for the proper administration of this chapter;

(b) Administer oaths, issue subpoenas, subpoenas duces tecum, and all necessary process in proceedings brought before or initiated by the cabinet, and the process shall extend to all parts of the Commonwealth. Service of process in all proceedings brought before or initiated by the cabinet may be made by certified mail, or in the same manner as other process in civil cases, as the cabinet directs;

(c) Establish by promulgation of administrative regulation under KRS Chapter 13A reasonable application fees for certificates of need;

(d) Appoint technical advisory committees as are deemed necessary to administer its functions under the provisions of this chapter;

(e) Establish a mechanism for issuing advisory opinions to prospective applicants for certificates of need regarding the requirements of a certificate of need; and

(f) Establish a mechanism for biennial review of projects for compliance with the terms of the certificate of need.

Section 4. KRS 216B.095 is amended to read as follows:

(1) An applicant may waive the procedures for formal review of an application for a certificate of need and request a nonsubstantive review as provided below. The cabinet may grant or deny nonsubstantive review status within ten (10) days of the date the application is deemed completed and shall give notice to all affected persons of the decision to conduct a nonsubstantive review. Any affected person other than the applicant may request a hearing by filing a request with the cabinet within ten (10) days of the notice to conduct a nonsubstantive review. As applicable, hearings shall be conducted as provided in KRS 216B.085. Based solely upon the record established with regard to the matter, the cabinet shall approve or deny a certificate of need on all projects assigned nonsubstantive review status within thirty-five (35) days of the determination of nonsubstantive review status. If the application is denied nonsubstantive review status, it shall automatically be placed in the formal review process.

(2) If a certificate of need is denied following a nonsubstantive review, the applicant may request that the application be placed in the next cycle of the formal review process. Nothing in this subsection shall require an applicant to pursue a formal review before obtaining judicial review pursuant to KRS 216B.115.

(3) The cabinet may grant nonsubstantive review status to an application for a certificate of need which is required:

(a) To change the location of a proposed health facility;

(b) To replace or relocate a licensed health facility, if there is no substantial change in health services or substantial change in bed capacity;

(c) To replace or repair worn equipment if the worn equipment has been used by the applicant in a health facility for five (5) years or more;

(d) For cost escalations;

(e) To establish an industrial ambulance service; or

(f) In other circumstances the cabinet by administrative regulation may prescribe.

(4) Notwithstanding any other provision to the contrary in this chapter, the cabinet may approve a certificate of need for a project required for the purposes set out in paragraphs (a) through (f) of subsection (3) of this section, unless it finds the facility or service with respect to which the capital expenditure is proposed to be made is not required; or to the extent the facility or services contemplated by the proposed capital expenditure is addressed in the state health plan, the cabinet finds that the capital expenditure is not consistent with the state health plan.

(5) The decision of the cabinet approving or denying a certificate of need pursuant to this section shall be final for purposes of judicial appeal, unless the applicant requests the application be placed in the formal review process. An approved certificate shall be issued thirty (30) days after notice of the cabinet's decision, unless a judicial appeal is taken and issuance is enjoined by the court.

(6) Notwithstanding any other provision of law, the cabinet shall not grant nonsubstantive review status to a certificate of need application that indicates an intent to apply for Medicaid certification of nursing home beds within a continuing care retirement community established under Sections 1, 2, 5, and 6 of this Act.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The cabinet shall promulgate administrative regulations according to KRS Chapter 13A that set forth the procedures and requirements for obtaining a certificate of compliance for a continuing care retirement community.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) To be eligible for a certificate of compliance, a continuing care retirement community shall certify in writing to the cabinet and shall disclose in writing to each of its residents that:

(a) None of the health facilities or health services operated by the continuing care retirement community shall apply for or become certified for participation in the Medicaid program; and

(b) No claim for Medicaid reimbursement shall be submitted for any person for any health service provided by the continuing care retirement community.

(2) A continuing care retirement community may establish one (1) bed at the nursing home level of care for every four (4) living units or personal care beds operated by the continuing care retirement community collectively. All residents in nursing home beds shall be assessed using the Health Care Financing Administration approved long-term care resident assessment instrument.

(3) Admissions to continuing care retirement community nursing home beds shall be exclusively limited to on-campus residents. A resident shall not be admitted to a continuing care retirement community nursing home bed prior to ninety (90) days of residency in the continuing care retirement community unless the resident experiences a significant change in health status documented by a physician. No resident admitted to a nursing home bed shall be transferred or discharged without thirty (30) days prior written notice to the resident or his or her guardian.

(4) A continuing care retirement community shall assist each resident upon a move-out notice to find appropriate living arrangements. Each continuing care retirement community shall share information on alternative living arrangements provided by the Office of Aging Services at the time a move-out notice is given to a resident. The written agreement executed by the resident and the continuing care retirement community shall contain provisions for assisting any resident who has received a move-out notice to find appropriate living arrangements, prior to the actual move-out date.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

The establishment of continuing care retirement community nursing home beds under Sections 1, 2, 5, and 6 of this Act shall be limited to the time period commencing upon the effective date of this Act and ending upon the adjournment of the 2002 General Assembly. No further continuing care retirement community nursing home beds shall be established under Sections 1, 2, 5, and 6 of this Act without affirmative actions of the General Assembly.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall monitor the establishment of continuing care retirement communities' nursing home beds closely. The cabinet shall collect the following data regarding continuing care retirement communities' nursing home beds:

(a) The number of applications for a certificate of need to convert nursing home beds to nursing facility beds, the number of beds included in each application, and the number of beds approved;

(b) The number of applications for Medicaid certification for continuing care retirement communities' nursing home beds, the number of beds included in each application, and the number of beds certified as Medicaid eligible;

(c) The payor sources for continuing care retirement communities' nursing home beds; and

(d) The number of each type of bed or living unit within each continuing care retirement community on the effective date of this Act and the number of each type of bed or living unit within each continuing care retirement community on October 31, 2001.

(2) Prior to the beginning of the 2002 Regular Session of the General Assembly, the secretary shall issue a report to the President of the Senate and the Speaker of the House of Representatives, the chair of the Senate Standing Committee on Health and Welfare, and the chair of the House Standing Committee on Health and Welfare addressing the impact of Sections 1, 2, 5, and 6 of this Act upon the state's Medicaid budget, consumer access issues, and providers of long-term care.

HB 567, AN ACT relating to nonprofit health-care conversion transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Nonprofit health-care entity" means any nonprofit hospital or other health-care facility as defined under KRS Chapter 216B, including corporations and hospitals created under a trust or a will, nonprofit health maintenance organizations, or nonprofit health-care insurers, including entities affiliated with any of these through ownership, governance, or membership, such as a holding company or subsidiary. "Nonprofit health-care entity" includes, but is not limited to, nonprofit entities that are licensed as hospitals, health-care facilities, health maintenance organizations, or health-care insurers, including mutual corporations holding assets in charitable trust, under Kentucky law.

(2) "Nonprofit health-care conversion transaction" means:

(a) The sale, transfer, lease, exchange, optioning, conveyance, or other disposition of a material amount of the assets or operations of a licensed nonprofit hospital, nonprofit health-care facility, nonprofit health maintenance organization or nonprofit health-care insurer, including a mutual corporation holding assets in charitable trust, to an entity or person other than a charity; and

(b) The transfer of control or governance of a material amount of the assets or operations of a licensed hospital, nonprofit health-care facility, nonprofit health maintenance organization or nonprofit health-care insurer including a mutual corporation holding assets in charitable trust, to an entity or person other than a charity.

(3) "Nonprofit health-care insurer" means any nonprofit provider of health-care insurance, including hospital service associations, health service corporations, and physician service organizations.

(4) "Person" means any individual, partnership, trust, estate, corporation, association, joint venture, joint stock company, insurance company, or other organization.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Any nonprofit health-care entity shall be required to provide written notice to, and obtain the approval of, the Attorney General prior to entering into any nonprofit health-care conversion transaction. At the time of providing notice to the Attorney General, the nonprofit health-care entity shall provide the Attorney General with written certification that a

copy of this statute has been given in its entirety to each member of the board of trustees of the nonprofit health-care entity.

(2) The notice to the Attorney General provided for in this section shall include and contain all of the information that the Attorney General determines is required. No notice shall be effective until the Attorney General has acknowledged receipt of a complete notice in accordance with administrative regulations promulgated under Section 6 of this Act in accordance with KRS Chapter 13A or in accordance with protocol established by the Attorney General.

(3) Sections 1 to 10 of this Act shall not apply to a nonprofit health-care entity if the nonprofit health-care conversion transaction is in the usual and regular course of the entity's activities and if the Attorney General has given the nonprofit health-care corporation a written waiver of this article as to the nonprofit health-care conversion transaction.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Within ninety (90) days of a complete written notice as required by Section 2 of this Act, the Attorney General shall notify the nonprofit health-care entity, in writing, of its decision to approve or disapprove the proposed nonprofit health-care conversion transaction. The Attorney General may extend this period for an additional sixty (60) day period if the extension is necessary to obtain information under Section 6 or 7 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Prior to issuing any written decision under Section 3 of this Act, the Attorney General shall conduct one (1) or more public hearings, one (1) of which shall be held in the county where the nonprofit health-care entity's assets to be transferred are located. At the public hearing, the Attorney General shall hear comments from interested persons desiring to make statements regarding the proposed nonprofit health-care conversion transaction. At least fourteen (14) days before the hearing, the Attorney General shall cause written notice to be provided of the time and place of the meeting through publication in one or more newspapers of general circulation in the affected community, to the county board of supervisors, and if applicable, to the city council of the city where the nonprofit health-care entity's assets to be transferred are located.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) In making a decision whether to approve or disapprove a proposed nonprofit health-care conversion transaction, the Attorney General shall consider:

(a) Whether the nonprofit health-care entity will receive full and fair market value for its charitable or social welfare assets;

(b) Whether the fair market value of the nonprofit health-care entity's assets to be transferred has been manipulated by the actions of the parties in a manner that causes the fair market value of the assets to decrease;

(c) Whether the proceeds of the proposed nonprofit health-care conversion transaction will be used consistent with the trust under which the assets are held by the nonprofit health-care entity and whether the proceeds will be controlled as funds independently of the acquiring or related entities;

(d) Whether the proposed nonprofit health-care conversion transaction will result in a breach of fiduciary duty, as determined by the Attorney General, including conflicts of interest related to payments or benefits to officers, directors, board members, executives, or experts employed or retained by the parties;

(e) Whether the governing body of the nonprofit health-care entity exercised due diligence in deciding to dispose of the nonprofit health-care entity's assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition;

(f) Whether the nonprofit health-care conversion transaction will result in private inurement to any person;

(g) Whether health-care providers will be offered the opportunity to invest or own an interest in the acquiring entity or a related party, and whether procedures or safeguards are in place to avoid conflict of interest in patient referrals;

(h) Whether the terms of any management or services contract negotiated in conjunction with the proposed nonprofit health-care conversion transaction are reasonable;

(i) Whether any foundation established to hold the proceeds of the sale will be broadly based in the community and be representative of the affected community, taking into consideration the structure and governance of the foundation;

(j) Whether the Attorney General has been provided with sufficient information and data by the nonprofit health-care entity to evaluate adequately the proposed nonprofit health-care conversion transaction or the effects thereof on the public, if the Attorney General has notified the nonprofit health-care entity or the acquiring entity of any inadequacy of the information or data and has provided a reasonable opportunity to remedy the inadequacy; and

(k) Any other criteria the Attorney General considers necessary to determine whether the nonprofit health-care entity will receive full and fair market value for its assets to be transferred as required under Section 6 of this

Act in administrative regulations promulgated by the Attorney General in accordance with KRS Chapter 13A.

(2) In making a decision whether to approve or disapprove an application, the Attorney General shall also determine whether the proposed nonprofit health-care conversion transaction may have a significant effect on the availability or accessibility of health-care services to the affected community. In making this determination, the Attorney General shall consider:

(a) Whether sufficient safeguards are included to assure the affected community continued access to affordable care;

(b) Whether the proposed nonprofit health-care conversion transaction creates or has the likelihood of creating an adverse effect on the access to or availability or cost of health-care services to the community;

(c) Whether the acquiring entities have made a commitment, at least comparable to that of the nonprofit health-care entity, to provide health-care to the disadvantaged, the uninsured, and the underinsured, and to provide benefits to the affected community to promote improved health-care. Activities and funding provided by the nonprofit health-care entity or its successor nonprofit health-care entity or foundation to provide the health-care or to provide support or medical education and teaching programs or medical research programs shall be considered in evaluating compliance with this commitment;

(d) Whether the nonprofit health-care conversion transaction will result in the revocation of hospital privileges;

(e) Whether sufficient safeguards are included to maintain appropriate capacity for health science research and health-care provider education; and

(f) Whether the proposed nonprofit health-care conversion transaction demonstrates that the public interest will be served considering the essential medical services needed to provide safe and adequate treatment, appropriate access, and balanced health-care delivery to the residents.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may promulgate any administrative regulations in accordance with KRS Chapter 13A as the Attorney General deems appropriate to implement Sections 1 to 10 of this Act.

(2) The Attorney General may demand that the nonprofit health-care entity giving notice under Section 2 of this Act provide the information that the Attorney General reasonably deems necessary to complete any proposed nonprofit health-care conversion transaction review under Section 5 of this Act. Failure by the nonprofit health-care entity giving notice under Section 2 of this Act to provide timely information as required by the Attorney General shall constitute sufficient grounds for the Attorney General to disapprove the proposed nonprofit health-care conversion transaction.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Within the time periods designated in Section 3 of this Act, the Attorney General may do any of the following to assist in the proposed nonprofit health-care conversion transaction review under Section 2 of this Act:

(a) Contract with, consult, or receive advice from any agency of the state or the United States on the terms and conditions that the Attorney General deems appropriate; or

(b) In the Attorney General's sole discretion, contract with any experts or consultants the Attorney General deems appropriate to assist the Attorney General in reviewing the proposed nonprofit health-care conversion transaction.

(2) Any contract costs incurred by the Attorney General under this section shall not exceed an amount that is reasonable and necessary to conduct the review of the proposed nonprofit health-care conversion transaction. Any contract entered into under this section shall be on a noncompetitive negotiation basis under KRS 45A.095. The nonprofit health-care entity giving notice under Section 2 of this Act shall, upon request, pay the Attorney General promptly for all contract costs not to exceed fifty thousand dollars ($50,000), as adjusted annually in accordance with the consumer price index for all urban consumers for the South region as published by the Bureau of Labor Statistics.

(3) The Attorney General shall be entitled to reimbursement from the nonprofit health-care entity giving notice under Section 2 of this Act for all reasonable and actual costs incurred by the Attorney General in reviewing any proposed nonprofit health-care conversion transaction under Sections 1 to 10 of this Act, including attorney fees at the billing rate used by the Attorney General to bill state agencies for legal services. The nonprofit health-care entity giving notice under Section 2 of this Act, upon request, shall pay the Attorney General promptly for all costs.

(4) The failure by the nonprofit health-care entity giving notice under Section 2 of this Act to promptly reimburse the Attorney General for all costs under subsections (2) or (3) of this section shall be sufficient grounds for the Attorney General to disapprove the proposed nonprofit health-care conversion transaction.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

All documents submitted to the Attorney General by any person, including nonprofit health-care entities giving notice under Section 2 of this Act, in connection with the Attorney General's review of the proposed nonprofit health-care conversion *transaction under Sections 1 to 10 of this Act shall be open records subject to the provisions of KRS 61.872 to 61.884.*

SECTION 9. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Any nonprofit health-care conversion transactions entered into in violation of the notice, review, or approval requirements of Sections 1 to 10 of this Act shall be null and void, and each member of the governing boards and the chief financial officers of the parties to the nonprofit health-care conversion transaction may be subject to a civil penalty of up to one million dollars ($1,000,000), the amount to be determined by the court of competent jurisdiction in the county in which the nonprofit health-care entity's assets to be transferred are located. The Attorney General shall institute proceedings to impose this penalty. In addition, no permit to operate a hospital may be issued or renewed under KRS Chapter 216B or under any other applicable statute or administrative regulation, if there is a nonprofit health-care conversion transaction entered into in violation of the notice, review, and approval requirements of Sections 1 to 10 of this Act.

(2) Nothing in this section shall be construed to limit the common law authority of the Attorney General to protect charitable trusts and charitable assets in this Commonwealth. These penalties and remedies are in addition to, and not a replacement for, any other civil or criminal actions that the Attorney General may take under either common law or statutory law, including rescinding the nonprofit health-care conversion transaction, granting injunctive relief, or any combination of these and other remedies available under common law or statutory law.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act may be cited as the Community Health-Care Assurance Act of 2000.

The Committee Substitute No. 1 to **HB 567** is as follows:

HB 567, AN ACT relating to nonprofit health-care conversion transactions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Nonprofit health-care entity" means any nonprofit hospital or other health-care facility as defined under KRS Chapter 216B, including corporations and hospitals created under a trust or a will, nonprofit health maintenance organizations, or nonprofit health-care insurers, including entities affiliated with any of these through ownership, governance, or membership, such as a holding company or subsidiary. "Nonprofit health-care entity" includes, but is not limited to, nonprofit entities that are licensed as hospitals, health-care facilities, health maintenance organizations, or health-care insurers, including mutual corporations holding assets in charitable trust, under Kentucky law.

(2) "Nonprofit health-care conversion transaction" means:

(a) The sale, transfer, lease, exchange, optioning, conveyance, or other disposition of a material amount of the assets or operations of a licensed nonprofit hospital, nonprofit health-care facility, nonprofit health maintenance organization or nonprofit health-care insurer, including a mutual corporation holding assets in charitable trust, to an entity or person other than another entity having the same or similar charitable purpose; and

(b) The transfer of control or governance of a material amount of the assets or operations of a licensed hospital, nonprofit health-care facility, nonprofit health maintenance organization or nonprofit health-care insurer including a mutual corporation holding assets in charitable trust, to an entity or person other than another entity having the same or similar charitable purpose.

(3) "Nonprofit health-care insurer" means any nonprofit provider of health-care insurance, including hospital service associations, health service corporations, and physician service organizations.

(4) "Person" means any individual, partnership, trust, estate, corporation, association, joint venture, joint stock company, insurance company, or other organization.

SECTION 2. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Any nonprofit health-care entity shall be required to provide written notice to the Attorney General prior to entering into any nonprofit health-care conversion transaction. At the time of providing notice to the Attorney General, the nonprofit health-care entity shall provide the Attorney General with written certification that a copy of this statute has been given in its entirety to each member of the board of trustees of the nonprofit health-care entity.

(2) The notice to the Attorney General provided for in this section shall include and contain all of the information that the Attorney General determines is required. No notice shall be effective until the Attorney General has acknowledged receipt of a complete notice in accordance with administrative regulations promulgated under Section 6 of this Act in accordance with KRS Chapter 13A.

(3) Sections 1 to 10 of this Act shall not apply to a nonprofit health-care entity if the nonprofit health-care conversion

transaction is in the usual and regular course of the entity's activities and if the Attorney General has given the nonprofit health-care corporation a written waiver of this article as to the nonprofit health-care conversion transaction.

(4) In the case of a nonprofit health-care insurer, the public hearing and report to the public required by Sections 1 to 10 of this Act shall be in addition to and concurrent with any hearings, approvals, or other requirements imposed pursuant to KRS Chapter 304.

SECTION 3. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Within ninety (90) days of a complete written notice as required by Section 2 of this Act, the Attorney General shall issue a report to the public on the proposed nonprofit health-care conversion transaction. The report shall include a summary of the information provided at the public hearing as required under Section 5 of this Act. The Attorney General may reduce this period to forty-five (45) days if a nonprofit health care entity can demonstrate it is in imminent danger of closing or is operating under deadlines imposed by the federal Health Care Financing Administration for continued certification under the Medicare program.

SECTION 4. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Prior to issuing a report to the public under Section 3 of this Act, the Attorney General shall conduct a public hearing, which shall be held in the county where the nonprofit health-care entity's assets to be transferred are located. At the public hearing, the Attorney General shall hear comments from interested persons desiring to make statements regarding the proposed nonprofit health-care conversion transaction. At least fourteen (14) days before the hearing, the Attorney General shall cause written notice to be provided of the time and place of the meeting through publication in one or more newspapers of general circulation in the affected community, to the fiscal court, and if applicable, to the city council of the city where the nonprofit health-care entity's assets to be transferred are located.

SECTION 5. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The parties to the proposed nonprofit health-care conversion transaction shall present testimony and written information at the public hearing required under Section 4 of this Act that demonstrates all of the following:

(a) Whether the nonprofit health-care entity will receive full and fair market value for its charitable or social welfare assets;

(b) Whether the fair market value of the nonprofit health-care entity's assets to be transferred has been manipulated by the actions of the parties in a manner that causes the fair market value of the assets to decrease;

(c) Whether the proceeds of the proposed nonprofit health-care conversion transaction will be used consistent with the trust under which the assets are held by the nonprofit health-care entity and whether the proceeds will be controlled as funds independently of the acquiring or related entities;

(d) Whether the proposed nonprofit health-care conversion transaction will result in a breach of fiduciary duty, including conflicts of interest related to payments or benefits to officers, directors, board members, executives, or experts employed or retained by the parties;

(e) Whether the governing body of the nonprofit health-care entity exercised due diligence in deciding to dispose of the nonprofit health-care entity's assets, selecting the acquiring entity, and negotiating the terms and conditions of the disposition;

(f) Whether the nonprofit health-care conversion transaction will result in private inurement to any person;

(g) Whether health-care providers will be offered the opportunity to invest or own an interest in the acquiring entity or a related party, and whether procedures or safeguards are in place to avoid conflict of interest in patient referrals;

(h) Whether the terms of any management or services contract negotiated in conjunction with the proposed nonprofit health-care conversion transaction are reasonable; and

(i) Whether any foundation established to hold the proceeds of the sale will be broadly based in the community and be representative of the affected community, taking into consideration the structure and governance of the foundation.

(2) The parties to the proposed nonprofit health-care conversion transaction shall also provide information as to whether the proposed nonprofit health-care conversion transaction will have a significant effect on the availability or accessibility of health-care services to the affected community by presenting testimony and written information at the public hearing required under Section 4 of this Act that demonstrates:

(a) Whether sufficient safeguards are included to assure the affected community continued access to affordable care;

(b) Whether the proposed nonprofit health-care conversion transaction creates or has the likelihood of creating an adverse effect on the access to or availability or cost of health-care services to the community;

(c) Whether the acquiring entities have made a commitment, at least comparable to that of the nonprofit health-

care entity, to provide health-care to the disadvantaged, the uninsured, and the underinsured, and to provide benefits to the affected community to promote improved health-care. Activities and funding provided by the nonprofit health-care entity or its successor nonprofit health-care entity or foundation to provide the health-care or to provide support or medical education and teaching programs or medical research programs shall be considered in evaluating compliance with this commitment;

(d) Whether the nonprofit health-care conversion transaction will result in the revocation of hospital privileges;

(e) Whether sufficient safeguards are included to maintain appropriate capacity for health science research and health-care provider education; and

(f) Whether the proposed nonprofit health-care conversion transaction demonstrates that the public interest will be served considering the essential medical services needed to provide safe and adequate treatment, appropriate access, and balanced health-care delivery to the residents.

SECTION 6. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) The Attorney General may promulgate any administrative regulations in accordance with KRS Chapter 13A as the Attorney General deems appropriate to implement Sections 1 to 10 of this Act.

(2) The Attorney General may require that the nonprofit health-care entity giving notice under Section 2 of this Act provide the information that the Attorney General reasonably deems necessary to complete the report required under Section 3 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

(1) Within the time periods designated in Section 3 of this Act, the Attorney General may do any of the following to assist in the preparation of the report on the proposed nonprofit health-care conversion transaction required under Section 3 of this Act:

(a) Contract with, consult, or receive advice from any agency of the state or the United States on the terms and conditions that the Attorney General deems appropriate; or

(b) In the Attorney General's sole discretion, contract with any experts or consultants the Attorney General deems appropriate to assist the Attorney General in preparing the report on the proposed nonprofit health-care conversion transaction.

(2) Any contract costs incurred by the Attorney General under this section shall not exceed an amount that is reasonable and necessary to prepare the report required by Section 3 of this Act on the proposed nonprofit health-care conversion transaction. Any contract entered into under this section shall be on a noncompetitive negotiation basis under KRS 45A.095. The person or entity acquiring the nonprofit health-care entity shall, upon request, pay the Attorney General promptly for all contract costs not to exceed fifty thousand dollars ($50,000), as adjusted annually in accordance with the consumer price index for all urban consumers for the South region as published by the Bureau of Labor Statistics. The Attorney General shall not be entitled to recover legal fees associated with the implementation of Sections 1 to 10 of this Act.

SECTION 8. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

All documents submitted to the Attorney General by any person, including nonprofit health-care entities giving notice under Section 2 of this Act, in connection with the Attorney General's review of the proposed nonprofit health-care conversion transaction under Sections 1 to 10 of this Act shall be open records subject to the provisions of KRS 61.872 to 61.884.

SECTION 9. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Nothing in Sections 1 to 10 of this Act shall be construed to limit the common law authority of the Attorney General to protect charitable trusts and charitable assets in this Commonwealth.

SECTION 10. A NEW SECTION OF KRS CHAPTER 216B IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act may be cited as the Community Health-Care Assurance Act of 2000.

HB 570, AN ACT relating to administrative authority for the Cabinet for Health Services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 194A.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary;

(2) Office of Program Support. The Office of Program Support shall provide professional support in personnel activities; planning; budgeting; contract management; policy analysis, including but not limited to the appraisal of needs; evaluation of programs; review of citizen complaints about services of the cabinet when complaints cannot be resolved through normal administrative remedies; and fiscal, facility, and information management functions of the cabinet. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the

Governor under KRS 12.050;

(3) Department for Medicaid Services. The Department for Medicaid Services shall serve as the single state agency in the Commonwealth to administer Title XIX of the Federal Social Security Act. The Department for Medicaid Services shall be headed by a commissioner for Medicaid services, who shall be appointed by the secretary with the approval of the Governor under with KRS 12.050. The commissioner for Medicaid services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner for Medicaid services shall exercise authority over the Department for Medicaid Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(4) Department for Public Health. The Department for Public Health shall develop and operate all programs of the cabinet that provide health services and all programs for assessing the health status of the population for the promotion of health and the prevention of disease, injury, disability, and premature death. The Department for Public Health shall be headed by a commissioner for public health who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for public health shall be a duly licensed physician who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner shall advise the head of each major organizational unit enumerated in this section on policies, plans, and programs relating to all matters of public health, including any actions necessary to safeguard the health of the citizens of the Commonwealth. The commissioner shall serve as chief medical officer of the Commonwealth. The commissioner for public health shall exercise authority over the Department for Public Health under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(5) Department for Mental Health and Mental Retardation Services. The Department for Mental Health and Mental Retardation Services shall develop and administer programs for the prevention of mental illness, mental retardation, and chemical dependency and shall develop and administer an array of services and support for the treatment, habilitation, and rehabilitation of persons who have a mental illness or emotional disability, who have mental retardation, or who are chemically dependent. The Department for Mental Health and Mental Retardation Services shall be headed by a commissioner for mental health and mental retardation who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for mental health and mental retardation shall be by training and experience in administration and management qualified to perform the duties of the office. The commissioner for mental health and mental retardation shall exercise authority over the department under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary;

(6) Office of the Inspector General. The Office of the Inspector General shall be responsible for:

(a) The conduct of audits and investigations for detecting the perpetration of fraud or abuse of any program by any client, or by any vendor of services with whom the cabinet has contracted; and the conduct of special investigations requested by the secretary, commissioners, or office heads of the cabinet into matters related to the cabinet or its programs;

(b) Licensing and regulatory functions as the secretary may delegate;

(c) Review of health facilities participating in transplant programs, as determined by the secretary, for the purpose of determining any violations of KRS 311.165 to 311.235 and KRS 311.241, 311.243, 311.245, and 311.247; and

(d) The notification and forwarding of any information relevant to possible criminal violations to the appropriate prosecuting authority.

The Office of the Inspector General shall be headed by an inspector general who shall be appointed by the secretary with the approval of the Governor. The inspector general shall be directly responsible to the secretary***. The inspector general shall have the power to issue a subpoena for a witness and a subpoena duces tecum relevant to a review, audit, or investigation***;

(7) Commission for Children with Special Health Care Needs. The duties, responsibilities, and authority set out in KRS 200.460 to 200.490 shall be performed by the commission. The commission shall advocate the rights of children with disabilities and, to the extent that funds are available, shall provide the services and facilities for children with disabilities as are deemed appropriate by the commission. The commission shall be composed of seven (7) members appointed by the Governor to serve a term of office of four (4) years. The commission may promulgate administrative regulations under KRS Chapter 13A as may be necessary to implement and administer its responsibilities. The duties, responsibilities, and authority of the Commission for Children with Special Health Care Needs shall be performed through the office of the executive director of the commission. The executive director shall be appointed by the Governor under KRS 12.040, and the commission may at any time recommend the removal of the executive director upon filing with the Governor a full written statement of its reasons for removal. The executive director shall report directly to the Commission for Children with Special Health Care Needs and serve as the commission's secretary;

(8) Office of Certificate of Need. The duties, responsibilities, and authority pertaining to the certificate of need functions and the licensure appeal functions, as set out in KRS Chapter 216B, shall be performed by this office;

(9) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of

the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be directly responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

HB 575, AN ACT relating to supported employment for individuals with significant disabilities and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 151B.180 TO 151B.210 IS CREATED TO READ AS FOLLOWS:

As used in KRS 151B.180 to 151B.210, unless the context otherwise requires, "supported employment services" means vocational rehabilitation services for an individual with a significant disability:

(1) Needed to assist the individual to find, learn, and retain a job in a typical community business;

(2) Needed to support and maintain the individual in retaining a community job; and

(3) Provided at a minimum twice monthly, and that include any or all of the following:

- ***(a) An assessment of the employment situation at the work site of each individual in supported employment, or an off-site assessment under special circumstances or at the request of the individual;***
- ***(b) The coordination or provision of specific services at or away from the work site needed to maintain employment;***
- ***(c) Intensive job skill training at the work site provided by a skilled job trainer who accompanies the individual;***
- ***(d) Job development, job retention, and placement services;***
- ***(e) Social skills training;***
- ***(f) Regular observation or supervision of the individual;***
- ***(g) Follow-up services to reinforce and stabilize an individual's job placement including, but not limited to, contact with the employer, the individual, a representative of the individual, and any other appropriate person; and***
- ***(h) Facilitation of natural supports at the work site.***

Section 2. KRS 151B.195 is amended to read as follows:

(1) The commissioner of the Department of Vocational Rehabilitation shall ***promulgate***[~~prescribe~~] administrative regulations governing the services, personnel, and administration of the State Vocational Rehabilitation Agency; may enter into reciprocal agreements with other states to provide for the vocational rehabilitation of residents of the states concerned; may establish and supervise the operation of small businesses established pursuant to KRS 151B.180 to 151B.210 to be conducted by eligible individuals with severe disabilities; and may establish state funded special programs for vocational rehabilitation in the state vocational rehabilitation agency.

(2) ***The commissioner is authorized to promulgate administrative regulations to establish supported employment programs to serve individuals with significant disabilities.***

(3) The commissioner shall ensure that the Department of Vocational Rehabilitation:

- ***(a) Coordinates the provision of supported employment services with workforce investment boards and one-stop career centers;***
- ***(b) Distributes funds for supported employment services appropriately to each county;***
- ***(c) Monitors the use of funds for supported employment services across counties and redistributes funds as necessary;***
- ***(d) Provides technical assistance to employers and supported employment service providers;***
- ***(e) Coordinates supported employment services and contracts; and***
- ***(f) Develops quality assurance measures for supported employment services.***

(4) Except as provided in KRS 151B.190, the commissioner may prescribe administrative regulations to establish fees for services provided to individuals or entities, public or private.

(5)[~~(3)~~]The commissioner is authorized to provide liability insurance or an indemnity bond against the negligence of drivers of motor vehicles owned or operated by the department for the transportation of applicants or clients of the department. If the transportation is let out under contract, the contract shall require the contractor to carry an indemnity bond or liability insurance against negligence to such amounts as the commissioner designates. In either case, the indemnity bond or insurance policy shall be issued by a surety or insurance company authorized to transact business in this state, and shall bind the company to pay any final judgment not to exceed the limits of the policy rendered against the insured for loss or damage to property of any applicant or client or other person, or death or injury of any applicant or client or other person.

(6)~~[(4)]~~The provisions of any other statute notwithstanding, the commissioner is authorized to use receipt of funds from the Social Security reimbursement program for a direct service delivery staff incentive program. Incentives may be awarded if case service costs are reimbursed for job placement of Social Security or Supplemental Security Income recipients at the Substantial Gainful Activity (SGA) level for nine (9) months pursuant to 42 U.S.C. sec. 422 and under those conditions and criteria as are established by the federal reimbursement program.

Section 3. There is appropriated to the Department of Vocational Rehabilitation out of the general fund in the State Treasury, to carry out the purposes of this Act, the sum of three million dollars ($3,000,000) for the 2000-2001 fiscal year and the sum of five million dollars ($5,000,000) for the 2001-2002 fiscal year.

HB 598, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994***, and shall include a mail order drug option as provided in subsection (14) of this section***. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized

under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2) years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The secretary shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail order drug

option for state employees. An insurer that provides health insurance coverage for state employees that includes the mail order drug option shall not discriminate against any pharmacy located within the geographic coverage area of the health benefit plan who is willing to meet the mail-order drug prices and any other terms and conditions for participation established by the insurer for coverage of drugs.

(15) No formulary changes under the drug benefit in policies of health insurance coverage procured under subsection (2) of this section shall be made unless the changes have been filed with and approved by the commissioner of the Department of Insurance. The commissioner shall review the changes and either approve or disapprove the changes within thirty (30) days of filing. At the expiration of the thirty (30) day period, and in the absence of any action by the commissioner, the formulary changes shall be deemed approved. Appeals from an order of the commissioner disapproving any formulary changes shall be taken as provided in Subtitle 2 of KRS Chapter 304.

(a) Changes to drug formularies shall be limited to quarterly changes;

(b) Insurers shall provide to the Personnel Cabinet, the Department of Insurance, and affected members of the state employees' group the reasons for any formulary changes, at the time the changes are filed with the commissioner;

(c) Insurers shall give at least thirty (30) days notice to affected insureds in established treatment regimes involving maintenance drugs before any formulary changes approved by the commissioner become effective;

(d) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change approved by the commissioner, if the physician supervising treatment certifies that the change is not in the best interests of the patient. The commissioner may, on a case-by-case basis, grant exceptions that prohibit application of an approved formulary change to individual insureds under this paragraph.

The Committee Substitute No. 1 to **HB 598** is as follows:

HB 598, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.225 is amended to read as follows:

(1) (a) The term "health maintenance organization" for the purposes of this section means a health maintenance organization as defined in KRS 304.38-030 or as a nonprofit hospital, medical-surgical, dental, and health service corporation, which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is qualified under the requirements of the United States Department of Health, Education and Welfare except as provided in subsection (2) of this section; and

(b) The term "state employee" for purposes of this section shall include a person, including an elected public official, who is regularly employed by any department, board, agency, branch of state government, or any municipal, urban-county, charter county, or county government, whose legislative body has opted to participate in the state health insurance program pursuant to KRS 79.080 and who is a contributing member to any one (1) of the retirement systems administered by the state and including any federally funded time-limited employee. It shall also include a person who must fulfill the requirements established by the Kentucky Board of Education for eligibility and a person who is a present or future recipient of a retirement allowance from any of the Kentucky Retirement Systems who either satisfies the requirements of KRS 61.559 or who is board authorized under KRS 61.702(1), including a beneficiary of a retired employee as defined in KRS 61.542 who is receiving a retirement allowance from any of the Kentucky Retirement Systems and includes members of the Legislators' Retirement Plan as provided in KRS 18A.2287. It shall also include a person who is a present or future recipient of a retirement allowance from the Teachers' Retirement System of Kentucky who either satisfies the requirements of KRS 161.525, 161.620, and 161.675 or who is board certified, including a beneficiary of a retired member who is receiving a retirement allowance from the Teachers' Retirement System of Kentucky.

(2) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, shall procure, in compliance with the provisions of KRS 45A.080, 45A.085, and 45A.090, from one (1) or more health, hospitalization, medical, major medical, and dental insurance companies or from one (1) or more health maintenance organizations authorized to do business in this state, a policy or policies of group health, hospitalization, medical, and major medical insurance or health maintenance organization coverage encompassing all or any class or classes of state employees. Health insurance coverage provided to state employees under this section shall, at a minimum, contain the same benefits as provided under Kentucky Kare Standard as of January 1, 1994***, and shall include a mail order drug option as provided in subsection (14) of this section***. All state employees and other persons for whom the insurance or health maintenance organization coverage is provided or made available shall annually be given an option to

elect standard insurance coverage, coverage by a health maintenance organization, or health insurance described in KRS 42.800 to 42.825; if a qualified health maintenance organization is not engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside, the state employees may annually be given the option to elect either standard insurance coverage or coverage by a health maintenance organization which has been licensed by the Kentucky Health Facilities and Health Services Certificate of Need and Licensure Board or its successor agency and issued a certificate of authority by the Department of Insurance as a health maintenance organization or as a nonprofit hospital, medical-surgical, dental, and health service corporation and which is engaged in providing basic health services in a health maintenance service area in which at least twenty-five (25) of the employees reside. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that standard insurance, health maintenance organization coverage, or health insurance described in KRS 42.800 to 42.825 may be made available for state employees, except that the procuring of each is permissive.

(3) The secretary of the Finance and Administration Cabinet, upon the recommendation of the secretary of the Personnel Cabinet, may procure from one (1) or more dental insurance companies, one (1) or more health maintenance organizations, one (1) or more nonprofit hospital, medical-surgical, dental, and health service corporations organized under Subtitle 32 of KRS Chapter 304, the health insurance agency described in KRS 42.800 to 42.825, or one (1) or more prepaid dental plan organizations organized under Subtitle 43 of KRS Chapter 304, a policy or policies of group dental insurance or prepaid dental plan coverage encompassing all or any class or classes of state employees. All state employees for whom the dental insurance or prepaid dental plan coverage is provided shall annually be given an option to elect either standard dental insurance coverage, health maintenance organization coverage, or coverage by a prepaid dental plan. The policy or policies shall be approved by the commissioner of insurance and may contain the provisions he approves, whether or not otherwise permitted by the insurance laws. It is intended that either dental insurance or prepaid dental plan coverage may be made available for state employees, except that the procuring of each is permissive.

(4) The premiums may be paid by the policyholder:

(a) Wholly from funds contributed by the insured employee, by payroll deduction or otherwise;

(b) Wholly from funds contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government; or

(c) Partly from each, except that any premium due for health maintenance organization coverage or prepaid dental plan coverage over the premium amount contributed by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government for any other insurance coverage shall be paid by the employee.

(5) If an employee moves his place of residence or employment out of the service area of a health maintenance organization or of a prepaid dental plan organization, under which he has elected coverage, into either the service area of another health maintenance organization or prepaid dental plan organization or into an area of the state not within a health maintenance organization service area or prepaid dental plan service area, the employee shall be given an option, at the time of the move or transfer, to elect coverage either by the health maintenance organization or prepaid dental plan organization into which service area he moves or is transferred or to elect standard insurance coverage offered by the employer or coverage under KRS 42.800 to 42.825.

(6) No payment of premium by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall constitute compensation to an insured employee for the purposes of any statute fixing or limiting the compensation of such an employee. Any premium or other expense incurred by any department, board, agency, or branch of state, municipal, urban-county, charter county, or county government shall be considered a proper cost of administration.

(7) The policy or policies may contain the provisions with respect to the class or classes of employees covered, amounts of insurance or coverage for designated classes or groups of employees, policy options, terms of eligibility, continuation of insurance or coverage after retirement, and other provisions the commissioner of insurance may approve.

(8) The policy or policies shall contain the provision that employees or retired employees shall be allowed to change health insurance carriers during the reopening period without any limitation for pre-existing conditions if the employee has met the pre-existing condition limitation upon initial employment or reemployment with the group.

(9) The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance, prepaid dental plan organization coverage, and health maintenance organization coverage under the provisions of this section.

(10) Group rates under the insurance or health maintenance organization coverage acquired under this section shall be made available to the disabled child of a state employee regardless of the child's age if the entire premium for the disabled child's coverage is paid by the state employee. A child shall be considered disabled if he has been determined to be eligible for federal Social Security disability benefits.

(11) The health insurance contract or contracts for state employees shall be entered into for a period of not less than two (2)

years, except the contract awarded October 1, 1984, shall be awarded for the period between October 1, 1984, and June 30, 1986.

(12) The secretary shall appoint twenty-four (24) persons to an Advisory Committee of State Health Insurance Subscribers to advise the secretary or his designee regarding the state health insurance program for state employees. The secretary shall appoint, from a list of names submitted by appointing authorities, members representing school districts from each of the seven (7) Supreme Court districts, members representing state government from each of the seven (7) Supreme Court districts, two (2) members representing retirees under age sixty-five (65), one (1) member representing local health departments, and three (3) members at large. The secretary shall also appoint two (2) members from a list of five (5) names submitted by the Kentucky Education Association and two (2) members from a list of five (5) names submitted by the largest state employee organization of nonschool state employees. The advisory committee shall be appointed in November of each year and shall meet quarterly.

(13) Notwithstanding any other provision of law to the contrary, the policy or policies provided to state employees pursuant to this section shall not provide coverage for obtaining or performing an abortion, nor shall any state funds be used for the purpose of obtaining or performing an abortion on behalf of state employees or their dependents.

(14) The policies of health insurance coverage procured under subsection (2) of this section shall include a mail order drug option for state employees. An insurer that provides health insurance coverage for state employees that includes the mail order drug option shall not discriminate against any pharmacy located within the geographic coverage area of the health benefit plan who is willing to meet the mail-order drug prices and any other reasonable terms and conditions for participation established by the insurer for coverage of drugs.

(15) An insurer that provides health insurance coverage for state employees procured under subsection (2) of this section shall maintain an updated formulary listing with the Personnel Cabinet, which shall be available for inspection by the state group members. Upon request, insurers shall provide state group members an updated listing of drugs on the formulary.

(16) No formulary changes under the drug benefit in policies of health insurance coverage procured under subsection (2) of this section shall be made unless the changes and the reasons for the changes have been filed with the Personnel Cabinet.

(a) Deletions from the drug formulary shall be limited to quarterly changes.

(b) Insurers shall give at least thirty (30) days' notice to affected insureds in established treatment regimes involving maintenance drugs before any formulary changes become effective and the notice shall include the reasons for the changes.

1. The insurer may waive the thirty (30) day requirement to protect the safety of the insured, and the notice shall be provided as soon as practicable.

2. The notice shall contain the reasons for the change.

(c) Interruption of an established treatment regime with maintenance drugs shall be grounds for an insured to appeal a formulary change through the established appeal procedures approved by the Personnel Cabinet, if the physician supervising the treatment certifies that the change is not in the best interests of the patient.

HB 676, AN ACT relating to the Kentucky Board of Nursing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

The board may require a criminal background investigation of an applicant for endorsement by means of a fingerprint check by the State Police and the Federal Bureau of Investigation.

SECTION 2. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

(1) The board may, on petition by an interested party, issue a declaratory ruling relating to the applicability to any person, property, or state of facts of a statute, administrative regulation, decision, order, or other written statement of law or policy within the jurisdiction of the board.

(2) A declaratory ruling shall be binding on the board and all parties to the proceedings on the statement of facts alleged.

(3) The board may not retroactively change a declaratory ruling, but nothing in this section shall prevent the board from prospectively changing a declaratory ruling.

(4) The board shall promulgate an administrative regulation in accordance with KRS Chapter 13A on procedures for submission, consideration, and disposition of a petition for a declaratory ruling.

(5) A declaratory ruling of the board may be appealed to the Circuit Court of the county in which the board's offices are located within thirty (30) days of the date of the final ruling by the board.

SECTION 3. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall maintain a current mailing address with the board and immediately notify the board in writing of a change of mailing address. As a condition of holding a license from the board, a licensee is deemed to have consented to service of notices or orders of the board at the mailing address on file with the board, and any notice or order of the board mailed or delivered to the mailing address on file with the board constitutes valid service of the notice or order.

SECTION 4. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall immediately notify the board in writing if any professional or business license that is issued to the person by any agency of the Commonwealth or any other jurisdiction is surrendered or terminated under threat of disciplinary action or is refused, suspended, or revoked, or if renewal of continuance is denied.

SECTION 5. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Any person licensed by the board shall, within thirty (30) days of entry of the final judgment, notify the board in writing of any misdemeanor or felony criminal conviction in this or any other jurisdiction. Upon learning of any failure to notify the board under this section, the board may initiate an action for immediate temporary suspension under KRS 314.089 until the person submits the required notification.

Section 6. KRS 314.011 is amended to read as follows:

As used in KRS 314.011 to 314.161 and KRS 314.991, unless the context thereof requires otherwise:

(1) "Board" ***means***[~~shall mean~~] Kentucky Board of Nursing.

(2) "Delegation" means directing a competent person to perform a selected nursing activity or task in a selected situation under the nurse's supervision and pursuant to administrative regulations promulgated by the board in accordance with the provisions of KRS Chapter 13A.

(3) "Nurse" ***means***[~~shall mean~~] a person licensed under the provisions of this chapter as a registered nurse or as a licensed practical nurse.

(4) "Nursing process" means the investigative approach to nursing practice utilizing a method of problem-solving by means of:

(a) Nursing diagnosis, a systematic investigation of a health concern, and an analysis of the data collected in order to arrive at an identifiable problem; and

(b) Planning, implementation, and evaluation based on nationally-accepted standards of nursing practice.

(5) "Registered nurse" ***means***[~~shall mean~~] one who is licensed under the provisions of this chapter to engage in registered nursing practice.

(6) "Registered nursing practice" ***means***[~~shall mean~~] the performance of acts requiring substantial specialized knowledge, judgment, and nursing skill based upon the principles of psychological, biological, physical, and social sciences in the application of the nursing process in:

(a) The care, counsel, and health teaching of the ill, injured, or infirm.

(b) The maintenance of health or prevention of illness of others.

(c) The administration of medication and treatment as prescribed by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses. Components of medication administration include, but are not limited to:

1. Preparing and giving medications in the prescribed dosage, route, and frequency;

2. Observing, recording, and reporting desired effects, untoward reactions, and side effects of drug therapy;

3. Intervening when emergency care is required as a result of drug therapy;

4. Recognizing accepted prescribing limits and reporting deviations to the prescribing individual;

5. Recognizing drug incompatibilities and reporting interactions or potential interactions to the prescribing individual; and

6. Instructing an individual regarding medications.

(d) The supervision, teaching of, and delegation to other personnel in the performance of activities relating to nursing care.

(e) The performance of other nursing acts which are authorized or limited by the board, and which are consistent either with American Nurses' Association Standards of Practice or with Standards of Practice established by nationally-accepted organizations of registered nurses.

(7) "Advanced registered nurse practitioner" ***means***[~~shall mean~~] one who is registered and designated to engage in advanced registered nursing practice including[~~, but not limited to,~~] the nurse anesthetist, nurse midwife, ***clinical nurse specialist,*** and nurse practitioner pursuant to KRS 314.042.

(8) "Advanced registered nursing practice" ***means***~~[shall mean]~~ the performance of additional acts by registered nurses who have gained added knowledge and skills through an organized postbasic program of study and clinical experience and who are certified by the American Nurses' Association or other nationally-established organizations or agencies recognized by the board to certify registered nurses for advanced nursing practice. The additional acts shall, subject to approval of the board, include, but not be limited to, prescribing treatment, drugs, devices, and ordering diagnostic tests. Advanced registered nurse practitioners who engage in these additional acts shall be authorized to issue prescriptions for nonscheduled legend drugs as defined in KRS 217.905, under the conditions set forth in KRS 314.042. Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to obtain prescriptive authority pursuant to this chapter or any other provision of law in order to deliver anesthesia care. The performance of these additional acts shall be consistent with the certifying organization or agencies' scopes and standards of practice recognized by the board by administrative regulation.

(9) "Licensed practical nurse" ***means***~~[shall mean]~~ one who is licensed under the provisions of this chapter to engage in licensed practical nursing practice.

(10) "Licensed practical nursing practice" ***means***~~[shall mean]~~ the performance of acts requiring knowledge and skill such as are taught or acquired in approved schools for practical nursing in:

(a) The observing and caring for the ill, injured, or infirm under the direction of a registered nurse, a licensed physician, or dentist.

(b) The giving of counsel and applying procedures to safeguard life and health, as defined and authorized by the board.

(c) The administration of medication or treatment as authorized by a physician, physician assistant, dentist, or advanced registered nurse practitioner and as further authorized or limited by the board which is consistent with the National Federation of Licensed Practical Nurses or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(d) Teaching, supervising, and delegating except as limited by the board.

(e) The performance of other nursing acts which are authorized or limited by the board and which are consistent with the National Federation of Practical Nurses' Standards of Practice or with Standards of Practice established by nationally-accepted organizations of licensed practical nurses.

(11) "School of nursing" ***means***~~[shall mean]~~ a nursing education program preparing persons for licensure as a registered nurse or a practical nurse.

(12) "Continuing education" ***means***~~[shall mean]~~ offerings beyond the basic nursing program that present specific content planned and evaluated to meet competency based behavioral objectives which develop new skills and upgrade knowledge.

(13) "Nursing assistance" ***means***~~[shall mean]~~ the performance of delegated nursing acts by unlicensed nursing personnel for compensation under supervision of a nurse.

(14) "Sexual assault nurse examiner" ***means***~~[shall mean]~~ a registered nurse who has completed the required education and clinical experience and been credentialed by the board as provided under KRS 314.142 to conduct forensic examinations of victims of sexual offenses under the medical protocol issued by the State Medical Examiner pursuant to KRS 216B.400(2).

(15) "Competency" means the application of knowledge and skills in the utilization of critical thinking, effective communication, interventions, and caring behaviors consistent with the nurse's practice role within the context of the public's health, safety, and welfare.

(16) "Credential" means a current license, registration, or certificate that is issued by the board and that permits the practice of nursing.

Section 7. KRS 314.025 is amended to read as follows:

(1) There is hereby created the Kentucky nursing incentive scholarship fund.

(2) It is the intent of the General Assembly of the Commonwealth of Kentucky to address the nursing workforce needs throughout the Commonwealth; further it is the intent of the General Assembly to give preference for these scholarships to financially needy residents, registered nurses pursuing graduate nursing education, and licensed practical nurses of the Commonwealth. ***The fund also may issue grants for nursing workforce competency development.***

(3) It further is the intent of the General Assembly that an applicant who has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property may not be eligible for a Kentucky nursing incentive scholarship.

Section 8. KRS 314.031 is amended to read as follows:

(1) It shall be unlawful for any person to call or hold herself or himself out as or use the title of nurse or to practice or offer to practice as a nurse unless licensed under the provisions of this chapter.

(2) It shall be unlawful for any person to operate or to offer to operate or to represent or advertise the operation of a school of

nursing unless the school of nursing has been approved under the provisions of this chapter.

(3) It shall be unlawful for any person knowingly to employ a nurse unless the nurse is licensed under the provisions of this chapter.

(4) It shall be unlawful for any nurse, employer of nurses, or any person having knowledge of facts to refrain from reporting to the board a nurse who:

(a) Has been convicted of a misdemeanor or felony which involved acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing; or

(b) Is suspected of fraud or deceit in procuring or attempting to procure a license to practice nursing*;* or

(c) Is suspected of negligently or willfully acting in a manner inconsistent with the practice of nursing; or

(d) Is suspected of being unfit or incompetent to practice nursing by reason of negligence or other causes including, but not limited to, being unable to practice nursing with reasonable skill or safety*;* or

(e) Is suspected of[~~ willfully or repeatedly~~] violating any provisions of this chapter; or

(f)[~~(c)~~] Has a license to practice as a nurse denied, limited, suspended, probated, [~~or~~]revoked***, or otherwise disciplined*** in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated,[~~ or~~] revoked***, or otherwise disciplined*** in this Commonwealth; or

(g)[~~(d)~~]Is practicing nursing without a current active license or valid temporary work permit issued by the board***; or***

(h) Is suspected of abusing, misusing, or misappropriating any drugs placed in the custody of the nurse for administration, or for use of others; or

(i) Is suspected of falsifying or in a negligent manner making incorrect entries or failing to make essential entries on essential records.

Section 9. KRS 314.041 is amended to read as follows:

(1) An applicant for a license to practice as a registered nurse shall file with the board a written application for a license and submit evidence, verified by oath*:*[~~,~~]

(a) That the applicant[~~ has completed at least an approved four (4) year high school course of study or the equivalent thereof;~~] has completed the basic curriculum for preparing registered nurses in an approved school of nursing and ***has completed requirements for graduation***[~~holds a diploma~~] therefrom;

(b) Has fulfilled the requirements of KRS 214.615(1); and

(c) Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) An applicant shall be required to pass an examination in any subjects as the board may ***determine***[~~prescribe. Each written examination may be supplemented by an oral or practical examination~~]. Application for licensure by examination shall be received by the board at such time as ***determined***[~~prescribed~~] by regulation by the board.

(3) Upon successfully completing all requirements for licensure, the board ***may***[~~shall~~] issue to the applicant a license to practice nursing as a registered nurse***, if in the determination of the board the applicant is qualified to practice as a registered nurse in this state***.

(4) The board may issue a license to practice nursing as a registered nurse to any applicant who has passed the examination prescribed by the board or its equivalent and been licensed as a registered nurse under the laws of another state, territory, or foreign country, if in the opinion of the board the applicant is qualified to practice ***as a registered nurse***[~~professional nursing~~] in this state.

(5) The applicant for licensure to practice as a registered nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board promulgated pursuant to the provisions of KRS Chapter 13A.

(6) Any person who holds a license to practice as a registered nurse in this state shall have the right to use the title "registered nurse" and the abbreviation "R.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a registered nurse. No person shall practice as a registered nurse unless licensed under this section.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "R.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with regulations promulgated by the board in accordance with KRS Chapter 13A***[~~at least biennially~~] and those persons granted inactive status shall not be governed by the continuing ***competency***[~~education~~] provisions contained in this chapter. A registered nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in KRS Chapter 314 and by regulation of the board.

(8) Any person heretofore licensed as a registered nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(9) A license to practice registered nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 10. KRS 314.042 is amended to read as follows:

(1) An applicant for registration and designation to practice as an advanced registered nurse practitioner shall file with the board a written application for registration and designation and submit evidence, verified by oath, that the applicant has completed an organized postbasic program of study and clinical experience acceptable to the board; has fulfilled the requirements of KRS 214.615(1); is certified by a nationally-established organization or agency recognized by the board to certify registered nurses for advanced nursing practice; and is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The board may issue a registration to practice advanced registered nursing to an applicant who holds a current active registered nurse license issued by the board and meets the qualifications of subsection (1) of this section. An advanced registered nurse practitioner shall be designated by the board as a nurse anesthetist, nurse midwife, nurse practitioner, or ***clinical nurse specialist***[~~any other designation as determined by the board~~].

(3) The applicant for registration and designation or renewal thereof to practice as an advanced registered nurse practitioner shall pay a fee to the board as set forth in regulation by the board.

(4) An advanced registered nurse practitioner shall maintain a current active registered nurse license issued by the board and maintain current certification by the appropriate national organization or agency recognized by the board.

(5) Any person who holds a registration and designation to practice as an advanced registered nurse practitioner in this state shall have the right to use the title "advanced registered nurse practitioner" and the abbreviation "ARNP." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is an advanced registered nurse practitioner. No person shall practice as an advanced registered nurse practitioner unless registered under this section.

(6) Any person heretofore registered as an advanced registered nurse practitioner under the provisions of this chapter who has allowed the registration to lapse may be reinstated on payment of current fee and by meeting the provisions of this chapter and regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A.

(7) The board may authorize a person to practice as an advanced registered nurse practitioner temporarily and pursuant to applicable regulations promulgated by the board pursuant to the provisions of KRS Chapter 13A if the person is awaiting the results of the national certifying examination for the first time or is awaiting licensure by endorsement. A person awaiting the results of the national certifying examination shall use the title "ARNP Applicant" or "ARNP App."

(8) Before an advanced registered nurse practitioner engages in the prescribing of nonscheduled legend drugs as authorized by KRS 314.011(8), the advanced registered nurse practitioner shall enter into a written collaborative practice agreement with a physician that defines the scope of the prescriptive authority.

(9) Nothing in this chapter shall be construed as requiring an advanced registered nurse practitioner designated by the board as a nurse anesthetist to enter into a collaborative practice agreement with a physician, pursuant to this chapter or any other provision of law, in order to deliver anesthesia care.

Section 11. KRS 314.051 is amended to read as follows:

(1) An applicant for a license to practice as a licensed practical nurse shall file with the board a written application for a license verified by oath, that the applicant:

(a)[~~ Has completed at least an approved four (4) year high school course of study or its equivalent;~~

~~(b)~~] Has fulfilled the requirements of KRS 214.615(1);

(b)[~~(c)~~]Has completed the required educational program in practical nursing at an approved school of nursing and ***has completed requirements for graduation***[~~holds a diploma or certificate~~] therefrom; and

(c)[~~(d)~~]Is able to understandably speak and write the English language and to read the English language with comprehension.

(2) The applicant for licensure to practice as a licensed practical nurse shall pay a licensure application fee, and examination fees if applicable, as set forth in a regulation by the board.

(3) An applicant shall be required to pass an examination in any subjects the board may determine.[~~ Each written examination may be supplemented by an oral or practical examination.~~] Application for licensure by examination shall be received by the board at the time as ***determined***[~~prescribed~~] by regulation by the board.

(4) Upon successfully completing all requirements for licensure, the board ***may***[~~shall~~] issue to the applicant a license to practice as a licensed practical nurse ***if, in the determination of the board, the applicant is qualified to practice as a licensed practical nurse in this state***.

(5) The board may issue a license to practice as a licensed practical nurse to any applicant who has passed the examination prescribed by the board or its equivalent, and has been licensed or registered as a licensed practical nurse or a person licensed to perform similar services under a different title, under the laws of another state, territory or foreign country if, in

the opinion of the board, the applicant meets the requirements for a licensed practical nurse in this state.

(6) Any person who holds a license to practice as a licensed practical nurse in this state shall have the right to use the title "licensed practical nurse" and the abbreviation "L.P.N." No other person shall assume the title or use the abbreviation or any other words, letters, signs, or figures to indicate that the person using the same is a licensed practical nurse. No person shall practice as a licensed practical nurse unless licensed under this chapter.

(7) Those persons previously licensed by the board and not engaged in the practice of nursing in the Commonwealth of Kentucky, but desiring to maintain the right to use the title "L.P.N." may apply and be granted inactive status by the board in accordance with regulations promulgated by the board. Inactive status shall be renewed ***in accordance with administrative regulations promulgated by the board in accordance with KRS Chapter 13A,***~~[at least biennially]~~ and those persons granted inactive status shall not be governed by the continuing ***competency***~~[education]~~ provisions contained in this chapter. A licensed practical nurse on inactive status may petition the board for a renewal of a license to actively practice and shall complete the requirements as established in this chapter and by regulation of the board.

(8) Any person heretofore licensed as a practical nurse under the licensing laws of this state who has allowed the license to lapse by failure to renew may apply for reinstatement of the license under the provisions of this chapter.

(9) A license to practice practical nursing may be limited by the board in accordance with regulations promulgated by the board and as defined in this chapter.

Section 12. KRS 314.061 is amended to read as follows:

(1) Every ***credential***~~[license]~~ issued by the board shall have the seal of the board affixed. A ***holder of a credential***~~[licensee]~~ shall~~[sign his license,]~~ retain it in his possession, and be prepared to exhibit ***it***~~[his license or board certification of licensure]~~ upon demand by an employer or anyone to whom the ***holder of the credential***~~[licensee]~~ offers nursing services, or any board or staff member of the Kentucky Board of Nursing.

(2) Failure or refusal to produce a license or certification thereof upon demand shall be prima facie evidence that no such license exists.

Section 13. KRS 314.073 is amended to read as follows:

(1) Except for the first licensure renewal following the issuance of an original license by the board, as a prerequisite for license renewal, all individuals licensed under provisions of this chapter shall be required to document~~[the completion of]~~ continuing ***competency during the immediate past***~~[education requirements not to exceed thirty (30) contact hours in a given]~~ licensure period as prescribed in regulations promulgated by the board.~~[A "contact hour" is defined as fifty (50) minutes of an approved, organized learning experience.]~~

(2) ~~[Contact hours required to satisfy]~~The continuing ***competency***~~[education]~~ requirement shall be ***documented***~~[completed]~~ and reported ***as***~~[in accordance with board requirements]~~ set forth by ***the board in administrative regulations promulgated in accordance with KRS Chapter 13A***~~[regulation]~~.

(3) The board shall approve providers of continuing education. The approval may include recognition of providers approved by national organizations and state boards of nursing with comparable standards. Standards for these approvals shall be set by the board in administrative regulations promulgated in accordance with the provisions of KRS Chapter 13A.

(4) The board shall work cooperatively with professional nursing organizations, approved nursing schools, and other potential sources of continuing education programs to assure that adequate continuing education offerings are available statewide. The board may enter into contractual agreements to implement the provisions of this section.

(5) The board shall be responsible for notifying applicants for licensure and licensees applying for license renewal, of continuing ***competency***~~[education]~~ requirements.

(6) The continuing ***competency requirements***~~[education]~~ shall include the completion of the course described in KRS 214.610(1).

(7) In order to offset administrative costs incurred in the implementation of the mandatory continuing ***competency***~~[education]~~ requirements, the board may charge reasonable fees as established by regulation in accordance with the provisions of KRS Chapter 13A.

(8) The continuing ***competency***~~[education]~~ requirements shall include at least five (5) contact hours in pharmacology ***continuing education*** for any person registered as an advanced registered nurse practitioner.

Section 14. KRS 314.085 is amended to read as follows:

(1) If the board has reasonable cause to believe that any licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit is unable to practice with reasonable skill and safety or has abused alcohol or drugs, it may require the person to submit to a mental or physical examination by a physician or psychologist it designated. Upon the failure of the person to submit to a mental or physical examination, unless due to circumstances beyond the person's control, the board may initiate an action for immediate temporary suspension pursuant to KRS 314.089 ***or deny the application*** until the person submits to the required examination.

(2) Every licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a

temporary work permit shall be deemed to have given consent to submit to a mental or physical examination when so directed in writing by the board. The direction to submit to an examination shall contain the basis of the board's reasonable cause to believe that the person is unable to practice with reasonable skill and safety, or has abused alcohol or drugs. The person shall be deemed to have waived all objections to the admissibility of the examining physician's or psychologist's testimony or examination reports on the ground of privileged communication.

(3) The licensee; applicant for licensure by examination, endorsement, reinstatement, or change of status; or holder of a temporary work permit shall bear the cost of any mental or physical examination ordered by the board.

Section 15. KRS 314.091 is amended to read as follows:

(1) The board shall have power to ***reprimand,*** deny, limit, revoke, probate, or suspend any license ***or credential*** to practice nursing issued by the board or applied for in accordance with this chapter, or to otherwise discipline a licensee, ***credential holder, or applicant,*** or to deny admission to the licensure examination, or to require evidence of evaluation and therapy upon proof that the person:

(a) Is guilty of fraud or deceit in procuring or attempting to procure a license to practice nursing;

(b) Has been convicted of a misdemeanor or felony which involved ***fraud, deceit, a breach of trust, or physical harm or endangerment to others,*** acts that bear directly on the qualifications or ability of the applicant or licensee to practice nursing;

(c) Has been convicted of a misdemeanor offense under KRS Chapter 510 involving a patient, or a felony offense under KRS Chapter 510, 530.064, or 531.310, or has been found by the board to have had sexual contact as defined in KRS 510.010(7) with a patient while the patient was under the care of the nurse;

(d) Has negligently or willfully acted in a manner inconsistent with the practice of nursing;

(e) Is unfit or incompetent to practice nursing by reason of negligence or other causes, including but not limited to, being unable to practice nursing with reasonable skill or safety;

(f) Abuses use of controlled substances***, prescription medications, or alcohol;***[~~ or~~]

(g) Has misused or misappropriated any drugs placed in the custody of the nurse for ***administration***[~~medication~~], or ***for*** use of others;

(h)[~~(g)~~] Has falsified or in a[~~ repeatedly~~] negligent manner made incorrect entries or failed to make essential entries on essential records;

(i)[~~(h)~~] Has a license ***or credential*** to practice as a nurse denied, limited, suspended, probated, revoked, or otherwise disciplined in another jurisdiction on grounds sufficient to cause a license to be denied, limited, suspended, probated, revoked, or otherwise disciplined in this Commonwealth;[~~ or~~]

(j)[~~(i)~~] Has[~~ willfully or repeatedly~~] violated any of the provisions of this chapter***;***[~~ or~~]

(k) Has violated any lawful order or directive previously entered by the board***;***[~~, or~~]

(l) Has violated any administrative regulation promulgated by the board***; or***

(m) Has been listed on the nurse aide abuse registry with a substantiated finding of abuse, neglect, or misappropriation of property.

(2) All hearings[~~ for denial, limitation, probation, suspension, or revocation of the license of a registered or practical nurse~~] shall be conducted in accordance with KRS Chapter 13B. A suspended or revoked license ***or credential*** may be reinstated at the discretion of the board, and in accordance with regulations promulgated by the board.

(3) The executive director may issue subpoenas to compel the attendance of witnesses and the production of documents in the conduct of an investigation. The subpoenas may be enforced by the Circuit Court as for contempt. Any order or subpoena of the court requiring the attendance and testimony of witnesses and the production of documentary evidence may be enforced and shall be valid anywhere in this state.

(4) At all hearings on request of the board the Attorney General of this state or one (1) of the assistant attorneys general designated by the Attorney General shall appear and represent the board.

(5) A final order of the board shall be by majority vote thereof.

(6) Any person adversely affected by any final order of the board may obtain a review thereof by filing a written petition for review with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(7) If the board substantiates that sexual contact occurred between a nurse and a patient while the patient was under the care of or in a professional relationship with the nurse, the nurse's license ***or credential*** may be revoked or suspended with mandatory treatment of the nurse as prescribed by the board. The board may require the nurse to pay a specified amount for mental health services for the patient which are needed as a result of the sexual contact.

Section 16. KRS 314.101 is amended to read as follows:

(1) This chapter does not prohibit: the furnishing of nursing assistance in an emergency; the practice of nursing which is incidental to the program of study by individuals enrolled in nursing education programs and refresher courses approved

by the board or in graduate programs in nursing; the practice of any legally qualified nurse of another state who is employed by the United States government or any bureau, division, or agency thereof while in the discharge of his or her official duties; or the practice of any currently licensed nurse of another state whose responsibilities include transporting patients into, out of, or through this state.

(2) Nothing in this chapter shall be construed as prohibiting care of the sick with or without compensation or personal profit when done in connection with the practice of the religious tenets of any recognized or established church by adherents thereof as long as they do not engage in the practice of nursing as defined in this chapter.

(3) Nothing in this chapter shall limit, preclude, or otherwise restrict the practices of other licensed personnel in carrying out their duties under the terms of their licenses.

(4) A temporary work permit may be issued by the board to persons who have completed the requirements for, applied for, and paid the fee for licensure by examination or endorsement. Temporary work permits shall be issued only for the length of time required to process applications for endorsement or, in the case of applications for licensure by examination, for no longer than six (6) months from the first day of the month following completion of the program of nursing requirements, and shall not be renewed. No temporary work permit shall be issued to an applicant who has failed the licensure examination.

(5) The board may summarily withdraw a temporary work permit upon determination that the person does not meet the requirements for licensure or has disciplinary action pending against the person's license in this or another jurisdiction.

(6) A new graduate who holds a temporary work permit shall have the right to use the title "registered nurse applicant" and the abbreviation "RN App" or "licensed practical nurse applicant" and the abbreviation "LPN App" according to the type of permit issued.

(7) Any nurse educated outside the United States who has passed the state board test pool examination or its equivalent as determined by the board~~[or who has passed the commission on graduates of foreign nursing schools examination]~~ may be issued a temporary work permit.

Section 17. KRS 314.111 is amended to read as follows:

(1) An institution desiring to conduct a school of nursing shall apply to the board and submit evidence that it is prepared to carry out the minimum approved basic curriculum in nursing and that it is prepared to fulfill other requirements of standards which are established by KRS 314.011 to 314.161 and KRS 314.991 and the administrative regulations promulgated by the board. No person shall operate a nursing education program or school of nursing without complying with the provisions of this section.

(2) A survey of the institution and its proposed education program shall be made by the executive director or an authorized employee of the board who shall submit a written report of the survey to the board. If in the opinion of the board the requirements for an approved nursing education program or school of nursing are met it shall approve the school.

(3) ~~[Periodic surveys of all schools of nursing shall be made under the supervision of the board. Written reports of such surveys shall be submitted to the board.]~~If the board determines that any approved school of nursing is not maintaining the standards required by the statutes and the administrative regulations of the board, notice thereof in writing specifying their deficiencies shall be immediately given to the school. A school which fails to correct these conditions to the satisfaction of the board within a reasonable time shall be discontinued after an administrative hearing. The hearing shall be conducted in accordance with KRS Chapter 13B.

Section 18. KRS 314.121 is amended to read as follows:

(1) The Governor shall appoint a Board of Nursing consisting of *sixteen (16)*~~[fifteen (15)]~~ members;

(a) *Nine (9)*~~[Eight (8)]~~ members shall be registered nurses licensed to practice in the Commonwealth;

(b) Three (3) members shall be practical nurses licensed to practice in the Commonwealth;

(c) One (1) member shall be a nurse service administrator who is a registered nurse licensed to practice in the Commonwealth;

(d) One (1) member shall be engaged in practical nurse education who is a registered nurse licensed to practice in the Commonwealth; and

(e) Two (2) members shall be citizens at large, who are not associated with or financially interested in the practice or business regulated.

(2) Each appointment shall be for a term of four (4) years expiring on June 30 of the fourth year. The cycle for appointments and expiration of terms shall be as follows:

(a) The first year of the four (4) year cycle, the terms for *three (3)*~~[two (2)]~~ registered nurses and one (1) licensed practical nurse shall expire;

(b) The second year of the four (4) year cycle, the terms for three (3) registered nurses and one (1) citizen at large shall expire;

(c) The third year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and the one (1) member engaged in practical nurse education who is a registered nurse shall expire; and

(d) The fourth year of the four (4) year cycle, the terms for two (2) registered nurses, one (1) licensed practical nurse, and one (1) citizen at large shall expire.

(3) (a) By March 1, the Kentucky Nurses Association shall submit to the Governor a list of members qualified for appointment as R.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments necessary by July 1.

(b) By March 1, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor a list of names qualified for appointment as L.P.N. members, in number not less than twice the number of appointments to be made, from which list the Governor shall make each appointment or appointments as necessary by July 1.

(c) By March 1 of the year in which the nurse service administrator's term shall expire, the Kentucky Organization of Nurse Executives, an affiliate of the Kentucky Hospital Association, shall submit to the Governor two (2) names of qualified individuals for appointment as the nurse service administrator from which list the Governor shall make an appointment as necessary by July 1.

(d) By March 1, the Kentucky Association of Nonprofit Homes and Services for the Aging, Inc., shall submit to the Governor two (2) names of qualified individuals for appointments as its R.N. representative to the board, from which the Governor shall make an appointment by July 1.

(e) By March 1 of the year in which the Kentucky Association of Health Care Facilities representative's term shall expire, the Kentucky Association of Health Care Facilities shall submit to the Governor two (2) names of qualified individuals for appointment as its R.N. representative to the board, from which list the Governor shall make an appointment as necessary by July 1.

(f) Initially, the Governor shall appoint one (1) member to serve as the registered nurse who is engaged in practical nurse education to serve the term remaining according to the cycle specified in subsection (2) of this section. By August 1, 1996, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by September 1, 1996. Thereafter, by March 1 of the year in which the practical nurse educator's term expires, the Kentucky State Association of Licensed Practical Nurses shall submit to the Governor two (2) names of qualified individuals for the appointment, from which list the Governor shall make the appointment by July 1.

(g) The Governor shall appoint two (2) members who shall be citizens at large, who are not associated with or financially interested in the practice or business regulated. The Governor shall make the appointments by July 1 of the year in which the citizen members' terms expire.

(4) A vacancy on the board shall be filled by the Governor as provided for under subsection (1) of this section.

(5) The Governor may remove any member from the board for neglect of duty, incompetence, or unprofessional or dishonorable conduct.

(6) Each R.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of nursing, and a registered nurse in this state. All shall have had at least five (5) years of experience in nursing, three (3) of which shall immediately precede such appointment. Five (5) members shall be engaged in nursing practice; three (3) shall be engaged in nursing education; ***one (1) shall be engaged in advanced registered nursing practice;*** and one (1) shall be in nursing administration.

(7) Each L.P.N. member of the board shall be a citizen of the United States, a resident of Kentucky, a graduate of an approved school of practical nursing or its equivalent, licensed as a licensed practical nurse in this state,~~[and]~~ have at least five (5) years of experience in nursing, three (3) of which shall immediately precede this appointment***, and be currently engaged in nursing practice***.

Section 19. KRS 314.131 is amended to read as follows:

(1) The board shall meet at least annually and shall elect from its members a president ***and any other officers that it deems necessary***~~[, a president-elect, and a secretary]~~. ***Nine members***~~[A majority]~~ of the board including one (1) officer shall constitute a quorum at any meeting. The board is authorized to promulgate administrative regulations not inconsistent with the law and subject to the provisions of KRS Chapter 13A, as may be necessary to enable it to carry into effect the provisions of this chapter.

(2) The board shall approve ***programs***~~[curricula and standards for schools]~~ of nursing ~~[and courses preparing persons for licensure]~~ and shall monitor ***compliance with*** standards for nurse competency under this chapter. It shall~~[provide for surveys of schools and courses at any time as may be necessary, approve schools and courses meeting the requirements of this chapter and of the board, evaluate and approve courses for affiliation, and]~~ examine, license, and renew the license of duly-qualified applicants; determine notice of place and time of licensure examinations; approve providers of continuing education; administer continuing education requirements; issue advisory opinions ***or declaratory rulings*** dealing with the practice of nursing; register and designate those persons qualified to engage in advanced nursing practice; and it shall conduct administrative hearings in accordance with KRS Chapter 13B upon charges calling for discipline of a licensee and

cause the prosecution of all persons violating any provisions of this chapter. It shall keep a record of all its proceedings and make an annual report to the Governor.

(3) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a nurse licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a nurse is falsely accused.

(4) The board and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

(5) The board shall employ a qualified person to serve as executive director to the board, and shall fix the compensation and define the duties of the executive director. It may employ other persons as may be necessary to carry on the work of the board.

(6) The executive director shall have at least the qualifications for board members, and a master's degree in nursing or equivalent and shall have had at least two (2) years of experience in nursing administration immediately preceding the time of appointment.

(7) Each member of the board shall receive, in addition to traveling, hotel, and other necessary expenses, one hundred ***fifty*** dollars ***($150)***[~~($100)~~] for each day the member is actually engaged in the discharge of official duties.

(8) The board may, in its discretion, purchase liability insurance for board and staff members against acts performed in good faith discharge of duties.

(9) The board may, by administrative regulation issued pursuant to the provisions of KRS Chapter 13A, determine which disciplinary action records may be expunged. Any records which are expunged shall be exempt from disclosure under the Kentucky Open Records Law, KRS 61.870 to 61.884. The board shall not report its disciplinary actions for any purpose other than statistical.

(10) The board may reimburse any person appointed by direction of the board to any committee, subcommittee, or task force created by the board for his or her travel and subsistence expenses as established through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

Section 20. KRS 314.181 is amended to read as follows:

(1) A registered nurse who is employed by an ambulance service shall complete training in determination of death and preservation of evidence as required by the board through the promulgation of administrative regulations in accordance with KRS Chapter 13A.

(2) A registered nurse who is employed by an ambulance service shall determine whether or not a patient served by the ambulance service is dead. The registered nurse shall utilize the protocol specified by the board by administrative regulations. The registered nurse shall; when responding to a patient, first attempt resuscitation, unless the protocol indicates that the patient is not capable of being resuscitated[~~When it appears that a person whom a registered nurse who has successfully completed training in determination of death has been called to attend is dead, the registered nurse shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the registered nurse or a paramedic or an emergency medical technician who has responded with or after the registered nurse, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the nurse may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead~~].

(3) If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the registered nurse ***who is employed by an ambulance service*** may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(4)[~~(2)~~]In the event that a registered nurse ***who is employed by an ambulance service*** determines that a person is dead, the registered nurse shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(5)[~~(3) Any registered nursing course taught in pre-licensure programs after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the Board of Nursing by administrative regulation.~~

~~(4) Any registered nurse within the two (2) years following July 15, 1998, shall successfully complete in-service training required by the Board of Nursing by administrative regulation relating to determination of death and preservation of evidence.~~

~~(5) Any registered nurse from another jurisdiction desiring to become a registered nurse in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section.~~

~~(6)~~] The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person, prior to the arrival of the registered nurse ***who is employed by an ambulance service,*** by any person~~[, for the purposes of this section and KRS 446.400,]~~ shall not be considered as artificial maintenance of respiration and circulation ***for the purposes of this section and KRS 446.400***. The administration of advanced cardiac life support procedures by any person, other than a paramedic rendering care pursuant to KRS 311.660, prior to the arrival of the registered nurse shall preclude the determination of death by the registered nurse, and the provisions of KRS 446.400 shall apply.~~[However,]~~ Nothing in this section shall preclude the supervising physician from directing the registered nurse ***who is employed by an ambulance service*** to cease resuscitative efforts under approved agency medical protocols.

(6)~~[(7)]~~The resuscitative efforts of a nurse under protocols authorized by this section shall not invoke the provisions of KRS 446.400.

SECTION 21. A NEW SECTION OF KRS 314.011 TO 314.161 IS CREATED TO READ AS FOLLOWS:

Jurisdiction, both as to person and subject matter, under KRS 314.011 to 314.161 vests with the board upon application for licensure and shall continue during periods of licensure and lapse of licensure. The jurisdiction of the board shall be continuous over the individual applicant or licensee and shall not be divested by voluntary surrender of a license or withdrawal of an application.

Section 22. The following KRS section is repealed:

314.074 In-service training for nurses on child sexual abuse.

Section 23. To provide for the initial appointment of the advanced registered nurse practitioner member to the Board of Nursing under Section 18 of this Act, the Kentucky Nurses Association shall submit two (2) names to the Governor by August 1, 2000, and the Governor shall make the appointment no later than August 15, 2000. The initial term of this member shall be for a period of four (4) years.

The Committee on Appropriations and Revenue reported **HB 136**, with Committee Substitute attached thereto, **HB 268**, and **SJR 17** with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 565, HB 780, HCR 112,** and **SB 59** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 565, AN ACT relating to liquefied petroleum gas.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 234.120 is amended to read as follows:

(1) Subject to the exceptions provided in subsection (2), no person shall engage in any of the businesses set out in this subsection without first having provided proof to the commissioner of ability to respond in damages for personal injury and property damages in the amount prescribed, and having obtained from the commissioner the required license or licenses and paid the prescribed fee therefor:

(a) Selling or delivering to the ultimate consumer or user of liquefied petroleum gas; selling liquefied petroleum gas regulating equipment; repairing, installing, or connecting of containers, liquefied petroleum gas appliances, or liquefied petroleum gas utilization equipment; or filling of D.O.T. liquefied petroleum gas containers for ultimate consumer or wholesale dealer. In-state liquefied petroleum gas dealers, except those holding a valid license on July 15, 1994, shall maintain a liquefied petroleum gas storage facility with an eighteen thousand (18,000) gallon minimum capacity within the boundaries of Kentucky. Out-of-state liquefied petroleum gas dealers, except those holding a valid license on July 15, 1994, shall maintain an eighteen thousand (18,000) gallon minimum capacity liquefied petroleum gas storage facility within fifty (50) miles of the Kentucky border. ***Until January 1, 2002,*** the fee for this license shall be one hundred dollars ($100). ***Beginning on January 1, 2002, the fee for this license shall be two hundred dollars ($200), and the license shall be issued for a period of two (2) years.*** The minimum liability insurance for this license shall be one million dollars ($1,000,000).

(b) Selling or delivering liquefied petroleum gas in prefilled or filled-on-site containers of one hundred (100) pound liquefied petroleum gas capacity or less; selling of liquefied petroleum gas regulating equipment; assembly, repairing, installing, or connecting of liquefied petroleum gas containers, liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment. ***Until January 1, 2002,*** the fee for this license shall be fifty dollars ($50). ***Beginning on January 1, 2002, the fee for this license shall be one hundred dollars ($100), and the license shall be issued for a period of two (2) years.*** The minimum liability insurance for this license shall be five hundred thousand dollars ($500,000).

(c) Selling or filling of D.O.T. liquefied petroleum gas containers of forty-five (45) pounds or less capacity, or selling liquefied petroleum gas at a specific site for use as a motor vehicle fuel. ***Until January 1, 2002,*** the fee for this license shall be fifty dollars ($50). ***Beginning on January 1, 2002, the fee for this license shall be one hundred dollars ($100), and the license shall be issued for a period of two (2) years.*** The minimum liability insurance for this license shall be five hundred thousand dollars ($500,000).

(d) Storing, for resale, liquefied petroleum gas in D.O.T. containers of forty-five (45) pounds or less capacity, or selling D.O.T. containers, storage cabinets, racks, docks, for storage of forty-five (45) pound capacity or less. ***Until January 1, 2001,*** the fee for this license shall be twenty-five dollars ($25). ***Beginning on January 1, 2001, the fee for this license shall be fifty dollars ($50), and the license shall be issued for a period of two (2) years.*** The minimum liability insurance for this license shall be one hundred thousand dollars ($100,000).

(e) Assembling, repairing, installing, or connecting of liquefied petroleum gas containers, or regulating equipment, or liquefied petroleum gas appliances, or any liquefied petroleum gas utilization equipment. ***Until January 1, 2001,*** the fee for this license shall be twenty-five dollars ($25). ***Beginning on January 1, 2001, the fee for this license shall be fifty dollars ($50), and the license shall be issued for a period of two (2) years.*** The minimum liability insurance for this license shall be five hundred thousand dollars ($500,000).

(2)[~~No person shall be required to obtain a license in order to engage in the following activities concerning liquefied petroleum gas:~~

~~(a) Storage, by the ultimate consumer, for consumption only;~~

~~(b) Transportation, by the ultimate consumer, in quantities of ten (10) gallons or less;~~

~~(c) Handling in quantities of less than one (1) gallon United States water capacity, where the gas is an integral part of a device for its utilization;~~

~~(d) Use as a fuel, while in the fuel tank of a motor vehicle.~~

~~(3)~~] Any person engaged in any business for which a license is required under the provisions of subsection (1) and who engages in the business at more than one (1) office or place of business in this state shall obtain a separate license for each such office or place of business and shall pay therefor the required license fee; except that for the purposes of issuance of licenses under subsection (1) all facilities for the storage only of liquefied petroleum gas for resale within a radius of twenty (20) miles of an office or place of business shall be considered a part of the office or place of business and shall not require separate licensure.

(3)[~~(4)~~]The commissioner shall further have the authority to promulgate and enforce reasonable administrative regulations requiring proof of ability to respond in damages for personal injury and property damages in the minimum amounts required under the provisions of subsection (1), prior to the issuance of a license. The commissioner shall also have authority to suspend or revoke any license issued under this section for willful or gross negligence or for violation of any applicable administrative regulations promulgated under KRS 227.300, but any licensee whose license is suspended or revoked shall be afforded the opportunity for an administrative hearing conducted in accordance with KRS Chapter 13B.

Section 2. KRS 234.130 is amended to read as follows:

(1) The licenses required under KRS 234.120 shall be issued on a ***two (2)*** calendar year basis and shall be procured from the commissioner prior to the time of beginning business. All licenses and renewals thereof shall expire on December 31 of ***the second***[~~each~~] year.

(2)[~~Any person applying for a license after July 1 of any year shall be required to pay therefor only one-half (1/2) of the applicable fee for that calendar year.~~

~~(3)~~] Every person licensed under the provisions of KRS 234.100 to 234.160 who desires to continue in business shall, during January of ***the appropriate***[~~each~~] year, procure from the commissioner a renewal license for which he shall pay a fee equal to the original license fee.[~~Failure to procure a renewal license prior to January 31 of the year for which it is issued shall result in the imposition of a penalty equal to twenty percent (20%) of the renewal fee which shall be paid to the commissioner in addition to the renewal fee.~~]

HB 780, AN ACT relating to designation of Kentucky National Guard Day.

WHEREAS, the members of the Kentucky National Guard have unhesitatingly answered the call to serve in conflicts such as the War of 1812, the Mexican War, in both the Union and Confederate armies in the Civil War, the Spanish-American War, the Mexican border wars, World War I, World War II, the Korean War, Vietnam, the Persian Gulf, Somalia, Rwanda, and Bosnia-Herzegovina; and

WHEREAS, the Kentucky National Guard continues to train and maintain readiness for war, as well as answering the call of the people of the Commonwealth by responding to disasters as a result of tornadoes, snow storms, and floods; and

WHEREAS, the Kentucky National Guard keeps peace during times of civil conflict, assisting the state's law enforcement agencies engaged in the war on drugs; and

WHEREAS, on June 24, 1792, the Militia Act was signed into law by Governor Isaac Shelby, which recognized the formation of a Kentucky Militia;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The twenty-fourth day of June of each year is designated as Kentucky National Guard Day in the Commonwealth of Kentucky.

HCR 112, A CONCURRENT RESOLUTION urging Kentucky's Congressional delegation to pursue the placement of a brigade-size combat team at Fort Knox, Kentucky.

WHEREAS, Fort Knox is the home of the Army's Armor and Cavalry Center, the United States Army Recruiting Command, and is critical to the defense of our nation; and

WHEREAS, Fort Knox employs more than 11,000 military and civilian workers and contributes nearly $600 million in payroll and contracts to the economy of the Commonwealth; and

WHEREAS, the Army's budget cuts and downsizing initiative have had an adverse economic impact on Fort Knox; and

WHEREAS, as a result, Fort Knox has lost over 5,475 soldiers, 1,000 civilian employees, and $215 million in annual payroll and contracts; and

WHEREAS, the conflict in Bosnia and Kosovo revealed the Army's inability to move heavy forces to respond to our national interests; and

WHEREAS, the Army plans to transform to a lighter and more lethal force over the next five years in order to operate more effectively in places like the Balkans; and

WHEREAS, the Army plans to immediately reconfigure itself to a more responsive, deployable, and mobile force by creating five brigade-size combat teams; and

WHEREAS, platform demonstrations for the vehicles to equip the lighter brigade-size combat teams were done at Fort Knox because it was ideally suited with terrain mirroring combat conditions where lighter brigades are most expected to fight; and

WHEREAS, the Mounted Urban Combat Training facility and modern ranges at Fort Knox were crucial in the demonstration and testing of our war fighting capabilities but have not received funding from the Army; and

WHEREAS, although the two initial brigade-size combat teams will be stationed at Ft. Lewis, the Army has not made a decision on where to station the additional brigade-sized combat teams; and

WHEREAS, Fort Knox has clearly demonstrated that it possesses the resources and capacity to accommodate a brigade-size combat team; and

WHEREAS, a brigade-size combat team would have a significant positive impact on the economic well-being of our local communities which were adversely affected by the loss of the 194th Armored Brigade;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. That the General Assembly urges our Congressional Delegation to pursue the placement of a brigade-size combat team at Fort Knox, Kentucky, where the terrain and weather best mirror the locations where forces are likely to be used in the future, and where the Army's premier Mounted Urban Combat Training facility and the Western Kentucky Training Center are immediately available to train soldiers to face combat and peacekeeping missions in urban environments.

Section 2. That the Clerk of the House of Representatives send a copy of this Resolution to each member of Kentucky's Congressional delegation in Washington, D.C.

SB 59, AN ACT relating to the Department of Military Affairs.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 36.010 is amended to read as follows:

The Department of Military Affairs shall be attached to the Office of the Governor, have charge of and be responsible to the Governor for the proper functioning of the Kentucky National Guard, militia, and all other military or naval matters of the state, and shall consist of the following offices and divisions:

(1) Office of Management and Administration, containing the:
    (a) Division of Administrative Services;
    (b) Division of Facilities;
    (c) Bluegrass Station Division; and
    (d) Division of Air Transport;
(2) Division of ***Emergency Management***~~[Disaster and Emergency Services]~~;
(3) Office of the Chief of Staff for Federal Army Guard;

(4) Office of the Chief of Staff for Federal Air Guard; and

(5) Kentucky Civil Air Patrol.

In order to promote greater efficiency, economy, and improved administration, the divisional structure of the Department of Military Affairs may be changed, redesignated, or reorganized in accordance with KRS Chapter 12. Notwithstanding KRS Chapter 12, the department's attachment to the Office of Governor as a separate organizational unit not attached to any cabinet shall not be changed except by action of the General Assembly.

Section 2. KRS 17.167 is amended to read as follows:

(1) As used in this section, "felony offender" means any person who has been convicted of, entered an Alford plea to, or pleaded guilty to the commission of a capital offense or a felony.

(2) Any paid or volunteer fire department certified by the Commission on Fire Protection Personnel Standards and Education, ambulance service licensed by the Commonwealth of Kentucky, or rescue squad officially affiliated with a local disaster and emergency services organization or with the Division of ***Emergency Management***[~~Disaster and Emergency Services~~] may apply to the Justice Cabinet or the Administrative Office of the Courts for a felony offender record check on applicants for employment or membership with the fire department, ambulance service, or rescue squad.

(3) Each application form, provided by a fire department, ambulance service, or rescue squad to an applicant for employment or membership, shall conspicuously state the following: "FOR EMPLOYMENT WITH OR MEMBERSHIP WITH A FIRE DEPARTMENT, AMBULANCE SERVICE, OR RESCUE SQUAD, STATE LAW PERMITS A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT OR MEMBERSHIP."

(4) Any request for records under this section shall be on a form approved by the Justice Cabinet or the Administrative Office of the Courts. The Justice Cabinet and the Administrative Office of the Courts shall not charge a fee for making record checks.

Section 3. KRS 36.255 is amended to read as follows:

(1) The Kentucky Community Crisis Response Board is hereby created as a separate administrative body of state government within the meaning of KRS Chapter 12 and attached for administrative purposes to the Department of Military Affairs.

(2) The membership of the board shall consist of the following:

(a) The commissioner of the Department for Mental Health and Mental Retardation Services, or the commissioner's designee;

(b) The commissioner of the Department for Public Health, or the commissioner's designee;

(c) The commissioner of the Department of Education, or the commissioner's designee;

(d) The commissioner of the Kentucky State Police, or the commissioner's designee;

(e) The Kentucky state fire marshal, or the fire marshal's designee;

(f) The executive director of the Division of ***Emergency Management***[~~Disaster and Emergency Services~~], or the executive director's designee;

(g) The Attorney General, or the Attorney General's designee;

(h) One (1) representative of local community crisis response teams appointed by the Governor;

(i) Four (4) members appointed by the Governor to represent mental health disciplines;

(j) Two (2) members appointed by the Governor to represent emergency services disciplines;

(k) One (1) member who is a mental health professional licensed for independent clinical practice, to be appointed by the Governor. The licensed mental health professional member shall serve as clinical director for the board;

(l) One (1) member, appointed by the Governor, from a state-wide chaplain's association involved in emergency services, who is trained in grief counseling and has experience in crisis response;

(m) One (1) member from the Kentucky Chapter of the American Red Cross; and

(n) The commissioner of the Department for Social Services or the commissioner's designee.

(3) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall be approved members of the existing community crisis response team.

(4) All board members appointed pursuant to subsection (2)(h) to (2)(l) of this section shall have demonstrated a commitment to the provision of community crisis response services.

(5) The members of the board appointed by the Governor shall serve for two (2) years and may be reappointed for one (1) additional consecutive two (2) year term. All vacancies in appointed members' terms shall be filled by appointment of the Governor for the remainder of the unexpired term.

(6) The board shall elect annually from its membership a chairperson and shall establish other officers and committees as needed to execute the duties of the board.

(7) The board shall meet at least quarterly, and a majority of the members shall constitute a quorum for the transaction of the

board's business.

(8) Except for hired and appointed staff, no board member or team member shall receive compensation. However, board members and crisis response team members may receive reimbursement for expenses incurred in the course of providing crisis response services or executing the duties of the board, consistent with state policy governing the reimbursement of state employees for food, travel, and lodging. Except as provided for in KRS 36.260, nothing in the provisions of KRS 36.250 to 36.270 shall be construed to create liability of a private party for expenses incurred or reimbursed under this subsection.

Section 4. KRS 75.470 is amended to read as follows:

Nothing in KRS 75.400 to 75.460 shall be construed to conflict with or supersede the authority of the Natural Resources and the Environmental Protection Cabinet, pursuant to the provisions of KRS Chapter 149, over management of forestry areas, and KRS Chapter 224, over management of hazardous wastes, nor the authority of the Division of ***Emergency Management***[~~Disaster and Emergency Services~~], pursuant to KRS Chapter 39, over response to disasters and emergencies.

Section 5. KRS 95A.020 is amended to read as follows:

(1) There is hereby created the Commission on Fire Protection Personnel Standards and Education, hereinafter called "commission," which shall be attached to the state fire marshal's office in the Department of Housing, Buildings and Construction.

(2) The commission shall be composed of seventeen (17) members, residents of the State of Kentucky, appointed by the Governor. These members should be persons well qualified by experience or education in the field of fire protection or related fields.

(3) The membership of the commission shall include:

(a) Two (2) volunteer firefighters, neither of which is a fire chief or assistant fire chief;

(b) Three (3) paid firefighters, at least one (1) of whom shall be a full-time paid county firefighter and none of whom shall be a fire chief or assistant fire chief;

(c) One (1) trustee of a volunteer fire department or fire district who is not a volunteer firefighter;

(d) Two (2) fire chiefs of paid fire departments;

(e) One (1) licensed physician;

(f) Two (2) fire chiefs of volunteer fire departments;

(g) One (1) teacher or administrator representing the fire and rescue training service of the Kentucky Community and Technical College System;

(h) One (1) representative of the Division of ***Emergency Management***[~~Disaster and Emergency Services~~] of the Department of Military Affairs;

(i) One (1) mayor of a Kentucky city;

(j) One (1) county judge/executive;

(k) One (1) representative of Kentucky industry or business enterprise; and

(l) One (1) representative of the general public.

The chancellor for the Technical Institutions' Branch of the Kentucky Community and Technical College System and the state fire marshal, or their designees, shall serve as ex officio members of the commission. Their designees shall have full voting rights. Appointive members shall be appointed for a term of four (4) years. Any member chosen by the Governor to fill a vacancy created otherwise than by expiration of term shall be appointed for the unexpired term of the member he is chosen to succeed.

(4) Members of the commission shall receive no compensation for their services but shall be allowed their actual and necessary expenses incurred in the performance of their functions.

(5) Members of the commission appointed pursuant to this section shall first be appointed on July 15, 1980. The terms of members appointed earlier shall terminate on July 15, 1980, but the Governor may reappoint those members who qualify under the provisions of this section.

The Committee on State Government reported **HB 57,** Committee Substitute attached thereto, **HB 318, HB 464, HB 635,** with Committee Substitute attached thereto, **HB 698, HB 712, HB 713, HB 733, HB 737,** with Committee Amendment attached thereto, and **HCR 54** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 57, AN ACT relating to telephone communications with state government entities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Every organizational unit and administrative body of state government shall require and ensure that all incoming telephone calls to the organizational unit or administrative body received during its regular hours of operation shall initially be answered by an employee of the entity, rather than by an automated telephone answering system. An organizational unit or administrative body may use an automated telephone answering system for responding to and receiving messages from a caller following the caller's initial contact with an employee.

(2) The Finance and Administration Cabinet shall ensure that each organizational unit and administrative body of state government establishes a procedure for answering telephone calls placed to the entity during its regular business hours that conforms to the requirements of this section.

Section 2. If, during the 2000 Regular Session, the General Assembly confirms Executive Order 99-1359 which establishes a Governor's Office for Technology and transfers responsibility for state government telecommunications systems from the Finance and Administration Cabinet to the new Office, the Reviser of Statutes shall change "Finance and Administration Cabinet" to "Governor's Office for Technology" in Section 1 of this Act.

The Committee Substitute No. 1 to **HB 57** is as follows:

HB 57, AN ACT relating to telephone communications with state government entities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 12 IS CREATED TO READ AS FOLLOWS:

(1) Every organizational unit and administrative body of state government shall reduce its reliance on automated telephone answering systems and shall require and ensure that all incoming telephone calls to the organizational unit or administrative body received during its regular hours of operation shall be answered by an employee of the entity to the extent possible, efficiently utilizing state tax dollars, or by an automated telephone answering system that is operating in conformity with standards established under subsection (2) of this Section;

(2) The Finance and Administration Cabinet shall:

(a) Promulgate an administrative regulation in accordance with KRS Chapter 13A that establishes standards for employees answering telephones and for automated telephone answering systems that shall include an option in the first part of the automated menu for the person calling in to speak to an operator;

(b) Ensure that each organizational unit and administrative body of state government establishes or adopts a procedure for answering telephone calls placed to the entity during its regular business hours that conforms to the requirements of this section;

(c) Report to the Interim Joint Committee on State Government prior to January 1, 2001, on the standards adopted under paragraph (a) of this subsection; and

(d) Report to the Interim Joint Committee on State Government by August 1, 2001, on the progress state government entities have made in reducing their reliance on automated telephone answering systems as required by subsection (1) of this section.

Section 2. If, during the 2000 Regular Session, the General Assembly confirms Executive Order 99-1359 which establishes a Governor's Office for Technology and transfers responsibility for state government telecommunications systems from the Finance and Administration Cabinet to the new Office, the Reviser of Statutes shall change "Finance and Administration Cabinet" to "Governor's Office for Technology" in Section 1 of this Act.

HB 318, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.637 is amended to read as follows:

(1) A retired member who is receiving monthly retirement payments under any of the provisions of KRS 61.515 to 61.705 and 78.520 to 78.852 and who is reemployed as an employee by a participating agency shall have his retirement payments suspended for the duration of reemployment~~[, except as provided in subsection (7) of this section]~~. Monthly payments shall not be suspended for a retired member who is reemployed if he anticipates that he will receive less than the maximum permissible earnings as provided by the Federal Social Security Act in compensation as a result of reemployment during the calendar year. The payments shall be suspended at the beginning of the month in which the reemployment occurs.

(2) Employer and employee contributions shall be made as provided in KRS 61.515 to 61.705 and 78.520 to 78.852 on the compensation paid during reemployment, except where monthly payments were not suspended as provided in subsection (1) of this section or would not increase the retired member's last monthly retirement allowance by at least one dollar ($1), and the member shall be credited with additional service credit.

(3) In the month following the termination of reemployment, retirement allowance payments shall be reinstated under the plan

under which the member was receiving payments prior to reemployment.

(4) (a) Notwithstanding the provisions of this section, the payments suspended in accordance with subsection (1) of this section shall be paid retroactively to the retired member, or his estate, if he does not receive more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment;

(b) If the retired member is paid suspended payments retroactively in accordance with this section, employee contributions deducted during his period of reemployment, if any, shall be refunded to the retired employee, and no service credit shall be earned for the period of reemployment;

(c) If the retired member is not eligible to be paid suspended payments for his period of reemployment as an employee, his retirement allowance shall be recomputed under the plan under which the member was receiving payments prior to reemployment as follows:

1. The retired member's final compensation shall be recomputed using creditable compensation for his period of reemployment; however, the final compensation resulting from the recalculation shall not be less than that of the member when his retirement allowance was last determined;

2. If the retired member initially retired on or subsequent to his normal retirement date, his retirement allowance shall be recomputed by using the formula in KRS 61.595(1);

3. If the retired member initially retired prior to his normal retirement date, his retirement allowance shall be recomputed using the formula in KRS 61.595(2), except that the member's age used in computing benefits shall be his age at the time of his initial retirement increased by the number of months of service credit earned for service performed during reemployment;

4. The retirement allowance payments resulting from the recomputation under this subsection shall be payable in the month following the termination of reemployment in lieu of payments under subparagraph 3. The member shall not receive less in benefits as a result of the recomputation than he was receiving prior to reemployment or would receive as determined under KRS 61.691;

5. Any retired member who was reemployed prior to March 26, 1974, shall begin making contributions to the system in accordance with the provisions of this section on the first day of the month following March 26, 1974.

(5) A retired member, or his estate, shall pay to the retirement fund the total amount of payments which are not suspended in accordance with subsection (1) of this section if the member received more than the maximum permissible earnings as provided by the Federal Social Security Act in compensation from participating agencies during any calendar year of reemployment, except the retired member or his estate may repay the lesser of the total amount of payments which were not suspended or fifty cents ($0.50) of each dollar earned over the maximum permissible earnings during reemployment if under age sixty-five (65), or one dollar ($1) for every three dollars ($3) earned if over age sixty-five (65).

(6) (a) "Reemployment" or "reinstatement" as used in this section shall not include a retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095; and

(b) A retired member who has been ordered reinstated by the Personnel Board under authority of KRS 18A.095 or by court order or by order of the Human Rights Commission and accepts employment by an agency participating in the Kentucky Employees Retirement System or County Employees Retirement System shall void his retirement by reimbursing the system in the full amount of his retirement allowance payments received.

(7)[~~If a member is retired from a hazardous position, as defined by KRS 61.592, the member shall be permitted to seek and hold an elected city or county office under the provisions of this subsection:~~

~~(a) The member may receive the pay for the elected city or county office but shall not contribute to, receive benefits from, or otherwise participate in the office's retirement system; and~~

~~(b) The member's pension and benefits received because of retirement from the hazardous position shall not be affected if he holds an elected city or county office.~~

~~(8)~~] Effective August 1, 1998, the provisions of subsections (1) to (4) of this section shall no longer apply to a retired member who is reemployed in a position covered by the same retirement system from which the member retired. Reemployed retired members shall be treated as new members upon reemployment. Any retired member whose reemployment date preceded August 1, 1998, who does not elect, within sixty (60) days of notification by the retirement systems, to remain under the provisions of subsections (1) to (4) of this section shall be deemed to have elected to participate under this subsection.

HB 464, AN ACT relating to the Department of Corrections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 196.160 is amended to read as follows:

(1) The commissioner shall appoint a warden, a receiver, and other necessary employees for each of the state penal and correctional institutions. The compensation of these officers and employees may include maintenance. The commissioner may require these officers and employees to wear uniforms and to adopt, amend, or rescind administrative regulations governing dress and grooming standards of these uniformed officers and employees.

(2) The department shall make the contributions required by KRS 61.592 for participation in the hazardous duty retirement program by its employees in those positions in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates. ***Additionally, for these employees, the department shall institute a salary improvement and turnover prevention program. As part of this program, the department shall increase each employee's base salary by one hundred dollars ($100) per month after the completion of the first five (5), ten (10), and fifteen (15) years of employment regularly and routinely requiring face-to-face contact with inmates. For employees with duties that regularly and routinely require face-to-face contact with inmates who are employed on the effective date of this Act, the department shall credit the employee's previous state service that required regular and routine face-to-face contact with inmates toward the employee's eligibility to receive the salary increases required by this subsection. The employee's base pay shall be immediately adjusted based upon the crediting of the employee's prior experience. Salary increases required by this subsection shall be in addition to any other increase authorized by law.***

HB 635, AN ACT relating to vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.550 is amended to read as follows:

As used in this section to KRS 227.660, 227.990, and 227.992, unless the context requires a different definition:

(1) "Board" means the Manufactured Home Certification and Licensure Board~~[or the Recreational Vehicle Certification and Licensure Board]~~.

(2) "Class A seal" means a device or insignia issued by the office to indicate compliance with the standards, rules, and regulations established by the office or the board~~[for recreational vehicles]~~.

(3) "Class B seal" means a seal issued pursuant to subsection *(1)*~~[(3)]~~ of KRS 227.600.

(4) "Dealer" means any person, other than a manufacturer, as defined herein, firm, or corporation, who sells or offers for sale three (3) or more manufactured homes, mobile homes, ***park trailers,*** or recreational vehicles in any consecutive twelve (12) month period.

(5) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a dealer, which shall include the books, records, files, and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a dealer may be performed. The place of business shall not consist of a residence, tent, temporary stand, or open lot. It shall display a suitable sign identifying the dealer and his business.

(6) "Federal act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder.

(7) "Manufactured home" means a single-family residential dwelling constructed in accordance with the federal act, manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings the construction of which is not preempted by the federal act are subject to building code requirements of KRS Chapter 198B.

(8) "Manufactured housing" means manufactured homes, mobile homes,~~[recreational vehicles,]~~ mobile office or commercial units, add-a-rooms, or cabanas.

(9) "Manufacturer" means any person who manufactures manufactured homes~~[or recreational vehicles]~~ and sells to Kentucky dealers.

(10) "Mobile home" means a structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(11) "Office" means the office of the state fire marshal.

(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. It shall include recreational vehicles which are regulated as to length, width, and registration by KRS Chapter 186. The basic entities are: Travel trailer, camping trailer, truck camper, motor home, and ***fifth wheel trailer***[~~park vehicle~~].

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and ***of gross trailer area not to exceed three hundred twenty (320) square feet***[~~with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms~~].

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck ***camper***[~~campers~~]: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(d)[~~Park vehicle: A vehicle which:~~

~~1. Is built on a single chassis mounted on wheels;~~

~~2. Is primarily designed as temporary living quarters for seasonal or destination camping and which may be connected to utilities necessary for operation of installed fixtures and appliances;~~

~~3. Has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode;~~

~~4. Has a gross trailer area not less than two hundred forty (240) square feet and is certified by the manufacturer as complying with ANSI A119.5, Park Vehicles.~~

~~(e)~~] Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(e) Fifth wheel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size and weight as to not require special highway movement permits, of gross trailer area not to exceed four hundred (400) square feet in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(13) ***"Park trailer" means a nonmotorized vehicular unit built on a single chassis, mounted on wheels, designed to provide living quarters for seasonal or destination camping, which may be connected to utilities necessary for operation of installed features and appliances, having a gross trailer area not exceeding four hundred (400) square feet in the set-up mode, and certified by its manufacturer as complying with ANSI A119.5, the Park Trailers standard.***

(14) "Gross trailer area" means the total plan area measured to the maximum horizontal projections of exterior walls in the set-up mode.

(15) "Secretary" means the secretary of the Federal Department of Housing and Urban Development.

(16)[~~(14)~~] "ANSI" means the American National Standards Institute.

(17) "NFPA" means the National Fire Protection Association.

Section 2. KRS 227.570 is amended to read as follows:

(1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes[~~ and for recreational vehicles~~] as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board[~~ or the Recreational Vehicle Certification and Licensure Board~~].

(2) The office shall enforce such standards and requirements for the body and frame design, construction, and installation of mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.

(3) New installations of manufactured homes and mobile homes shall be in accordance with the manufacturer's instructions or ANSI 225.1, Manufactured Home Installations.

SECTION 3. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) All recreational vehicles sold, leased, or offered for sale or lease by a dealer to a consumer in this state shall be constructed in accordance with ANSI A119.2/NFPA 1192.

(2) All park trailers sold, leased, or offered for sale or lease by a dealer to a consumer in this state shall be constructed in accordance with ANSI A119.5.

Section 4. KRS 227.580 is amended to read as follows:

(1) It is unlawful for any manufacturer to manufacture, import, or sell manufactured homes[~~ or recreational vehicles~~] within this state unless such manufacturer has been issued a certificate of acceptability for such manufactured homes[~~ or recreational vehicles~~] from the office. This provision shall not, however, apply to manufactured homes[~~ or recreational vehicles~~] manufactured in this state and designated for delivery to and sale in a state that has a code that is inconsistent with KRS 227.550 to 227.660.

(2)[~~ The office shall require that the manufacturer establish and submit to the office for approval systems for quality control for recreational vehicles prior to the issuance of a certificate of acceptability.~~

~~(a) The office shall issue a certificate of acceptability to any manufacturer within or without this state upon receipt of an application from such manufacturer to which is attached an affidavit certifying that any recreational vehicle manufactured by the applicant shall be built in compliance with the applicable code adopted by the Recreational Vehicle Certification and Licensure Board.~~

~~(b)~~] Certificates of acceptability shall be numbered and a record shall be kept by the office, by number, of the certificates issued to manufacturers.

(3) No manufacturer to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

[~~(4) The office may determine that the standards for recreational vehicles established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to those standards adopted by the Recreational Vehicle Certification and Licensure Board. If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such recreational vehicles.~~]

Section 5. KRS 227.590 is amended to read as follows:

(1) The board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 and to carry out their responsibilities as a state administrative agency for the enforcement and administration of the federal act.

(2) At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.

(3) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.

(4) Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have the authority to promulgate rules and regulations exempting manufacturers and dealers from the provisions of KRS 227.550 to 227.660 when manufactured homes ***and***[~~,~~] mobile homes[~~, and recreational vehicles~~] are brought into this state for exhibition only.

(5) All rules, regulations, codes, fees, and charges adopted by the board pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.

(6) The board shall have the authority to promulgate rules and regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state dealers for the purpose of participating in manufactured home and recreational vehicle shows in the Commonwealth of Kentucky.

Section 6. KRS 227.600 is amended to read as follows:

(1)[~~ No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this state any recreational vehicles unless they bear a seal of approval issued by and purchased from the office.~~

~~(2) Seals issued by the office shall be numbered and shall be affixed by the manufacturer to the recreational vehicle in a conspicuous place.~~

~~(3)~~] Any dealer who has acquired a used manufactured home ***or***[~~,~~] mobile home[~~, or recreational vehicle~~] without a seal shall apply to the office for a Class B seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for used manufactured homes ***or***[~~,~~] mobile homes[~~, or recreational vehicles~~]. Those manufactured homes or mobile homes taken in trade must be reinspected and certified. A numbered Class B seal shall be affixed by the dealer to the unit prior to sale. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public. A dealer shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a Class A or Class B seal.

(2)[~~(4)~~]The owner of any manufactured home or mobile home which is not covered by the federal act[~~ or a recreational vehicle~~

~~purchased in another state and not bearing a seal of approval~~] shall purchase a seal from the office. Application to purchase a seal of approval shall be made to the office or other person or agency authorized by the state fire marshal.

(3)[~~(5)~~]The office shall make available suitable forms for application for seals of approval for[~~ new and used recreational vehicles and for~~] used manufactured homes or mobile homes which are not covered by the federal act[~~ and recreational vehicles~~].

(4)[~~(6)~~]The clerk of the county in which a manufactured home *or*[~~,~~] mobile home[~~, or recreational vehicle~~] is sought to be registered after June 1, 1976, which was purchased out of Kentucky, shall require production of proof of purchase of a seal of approval as provided in subsection *(2)*[~~(4)~~] of this section before registering or issuing a license for any manufactured home *or*[~~,~~] mobile home[~~, or recreational vehicle~~].

Section 7. KRS 227.610 is amended to read as follows:

(1) The office shall license dealers under the provisions of KRS 227.550 to 227.660. The office may make the issuance of a license contingent upon the applicant's chief managing officer passing a test administered by the office.

(2) The provisions of KRS 227.610, 227.620, 227.625, 227.630, and 227.640 shall not apply to dealers of recreational vehicles or park trailers.

Section 8. KRS 227.630 is amended to read as follows:

(1) A license or certificate of acceptability may be denied, suspended, or revoked on the following grounds:
  (a) A showing of insolvency in a court of competent jurisdiction;
  (b) Material misstatement in application for license or certificate of acceptability;
  (c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or any rule or regulation promulgated by the board under KRS 227.550 to 227.660;
  (d) Willfully defrauding any buyer;
  (e) Willful failure to perform any written agreement with any buyer or dealer;
  (f) Failure to have or to maintain an established place of business;
  (g) Failure to furnish or maintain the required insurance;
  (h) Making a fraudulent sale, transaction, or repossession;
  (i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;
  (j) Failure by a dealer to put the title to a manufactured home *or*[~~,~~] mobile home[~~, or recreational vehicle~~] in his name after said dealer has acquired ownership of the manufactured home *or*[~~,~~] mobile home[~~, or recreational vehicle~~] by trade or otherwise;
  (k) Violation of any law relating to the sale or financing of manufactured homes *or*[~~,~~] mobile homes[~~, or recreational vehicles~~].

(2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within the scope of his authority.

(3) Upon proceedings for the suspension of a license or certificate of acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day. Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

Section 9. KRS 227.640 is amended to read as follows:

(1) The state fire marshal may deny the application for a license or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(2) No license or certificate of acceptability shall be suspended or revoked by the state fire marshal unless the licensee or certificate holder is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

(3) Any manufacturer or licensed dealer who violates or fails to comply with KRS 227.550 to 227.660 or any administrative regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation, if it is correctable, within twenty (20) days. Should the manufacturer or dealer fail to make the necessary corrections within the specified time or if the violation is not correctable, the state fire marshal may, after notice and hearing in accordance with KRS Chapter 13B, suspend or revoke any certificate of acceptability or license if it finds that:
  (a) The manufacturer or dealer has failed to pay the fees authorized by KRS 227.550 to 227.660; or that

(b) The manufacturer or dealer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any administrative regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; or that

(c) The manufacturer has shipped or imported into this state a manufactured home ***or***[~~,~~] mobile home[~~, or recreational vehicle~~] to any person other than to a duly licensed dealer.

(4) Any person aggrieved by any final order of the state fire marshal may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 10. KRS 227.650 is amended to read as follows:

(1) The office is empowered to inspect all mobile homes which are not covered by the federal act[~~ and recreational vehicles for which it has issued a seal of approval~~].

(2) The office may establish and require such training programs in the concept, techniques, and inspection of manufactured homes ***or***[~~,~~] mobile homes[~~, and recreational vehicles~~] for the personnel of local governments, as the office considers necessary.

(3) The staff of the office, upon showing proper credentials and in the discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, is authorized with the consent of the manufacturer or by proper warrant to enter and inspect all factories, warehouses, or establishments in this state in which manufactured homes are manufactured.

Section 11. KRS 227.660 is amended to read as follows:

The office, subject to the provisions of Chapter 18A and Chapter 64 of the Kentucky Revised Statutes, may set qualifications, employ, and fix the compensation of such state inspectors as the office deems necessary to carry out the functions of KRS 227.550 to 227.650. To carry out the provisions of KRS 227.550 to 227.650, the office may authorize the state inspectors to travel within or without the state for the purposes of inspecting the manufacturing facilities for manufactured homes[~~ and recreational vehicles~~] or for any other purpose in connection with KRS 227.550 to 227.650.

Section 12. KRS 227.992 is amended to read as follows:

Any person who willfully manufactures a manufactured home, sells, or offers for sale a manufactured home ***or***[~~,~~] mobile home[~~, or recreational vehicle~~] in this state in violation of the provisions of KRS 227.560 to 227.660 shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars ($1,000) or by confinement in the county jail for a period of not more than thirty (30) days, or both.

Section 13. The following KRS section is repealed:

227.565 Recreational Vehicle Certification and Licensure Board -- Membership -- Compensation -- Meetings.

The Committee Substitute No. 1 to **HB 635** is as follows:

HB 635, AN ACT relating to vehicles.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 227.550 is amended to read as follows:

As used in this section to KRS 227.660, 227.990, and 227.992, unless the context requires a different definition:

(1) "Board" means the Manufactured Home Certification and Licensure Board or the Recreational Vehicle ***Advisory***[~~Certification and Licensure~~] Board.

(2) "Class A seal" means a device or insignia issued by the office to indicate compliance with the standards, rules, and regulations established by the ***department***[~~office or the board for recreational vehicles~~].

(3) "Class B seal" means a seal issued pursuant to subsection (3) of KRS 227.600.

(4) "Dealer" means any person, other than a manufacturer, as defined herein, firm, or corporation, who sells or offers for sale three (3) or more manufactured homes, mobile homes, ***park trailers,*** or recreational vehicles in any consecutive twelve (12) month period.

(5) "Established place of business" means a fixed and permanent place of business in this state, including an office building and hard surface lot of suitable character and adequate facilities and qualified personnel, for the purpose of performing the functional business and duties of a dealer, which shall include the books, records, files, and equipment necessary to properly conduct such business, or a building having sufficient space therein in which the functional duties of a dealer may be performed. The place of business shall not consist of a residence, tent, temporary stand, or open lot. It shall display a suitable sign identifying the dealer and his business.

(6) "Federal act" means the National Manufactured Housing Construction and Safety Standards Act of 1974, 42 U.S.C. secs. 5401 et seq., as amended, and rules and regulations issued thereunder.

(7) "Manufactured home" means a single-family residential dwelling constructed in accordance with the federal act, manufactured after June 15, 1976, and designed to be used as a single-family residential dwelling with or without a

permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein. The manufactured home may also be used as a place of business, profession, or trade by the owner, the lessee, or the assigns of the owner or lessee and may comprise an integral unit or condominium structure. Buildings the construction of which is not preempted by the federal act are subject to building code requirements of KRS Chapter 198B.

(8) "Manufactured housing" means manufactured homes, mobile homes,[~~ recreational vehicles,~~] mobile office or commercial units, add-a-rooms, or cabanas.

(9) "Manufacturer" means any person who manufactures manufactured homes~~,~~***, park trailers,*** or recreational vehicles and sells to Kentucky dealers.

(10) "Mobile home" means a structure manufactured prior to June 15, 1976, which was not required to be constructed in accordance with the federal act, which is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width and forty (40) body feet or more in length, or, when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(11) "Office" means the office of the state fire marshal.

(12) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. It shall include recreational vehicles which are regulated as to length, width, and registration by KRS Chapter 186. The basic entities are: Travel trailer, camping trailer, truck camper, motor home, and ***fifth wheel trailer***[~~park vehicle~~].

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and ***of gross trailer area not to exceed three hundred twenty (320) square feet***[~~with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms~~].

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck ***camper***[~~campers~~]: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pickup truck.

(d)[~~ Park vehicle: A vehicle which:~~

~~1. Is built on a single chassis mounted on wheels;~~

~~2. Is primarily designed as temporary living quarters for seasonal or destination camping and which may be connected to utilities necessary for operation of installed fixtures and appliances;~~

~~3. Has a gross trailer area not exceeding four hundred (400) square feet in the set-up mode;~~

~~4. Has a gross trailer area not less than two hundred forty (240) square feet and is certified by the manufacturer as complying with ANSI A119.5, Park Vehicles.~~

~~(e)~~] Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

(e) Fifth wheel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, of such size and weight as to not require special highway movement permits, of gross trailer area not to exceed four hundred (400) square feet in the set-up mode, and designed to be towed by a motorized vehicle that contains a towing mechanism that is mounted above or forward of the tow vehicle's rear axle.

(13) ***"Park trailer" means a nonmotorized vehicular unit built on a single chassis, mounted on wheels, designed to provide temporary living quarters for seasonal or destination camping, which may be connected to utilities necessary for operation of installed features and appliances, having a gross trailer area not exceeding four hundred (400) square feet in the set-up mode, and certified by its manufacturer as complying with ANSI A119.5, the Park Trailers standard.***

(14) "Gross trailer area" means the total plan area measured to the maximum horizontal projections of exterior walls in the set-up mode.

(15) "Secretary" means the secretary of the Federal Department of Housing and Urban Development.

(16)[~~(14)~~] "ANSI" means the American National Standards Institute.

(17) "NFPA" means the National Fire Protection Association.

(18) "Department" means the Department of Housing, Buildings and Construction.

(19) "Seal" means a seal as further defined in Section 7 of this Act.

Section 2. KRS 227.565 is amended to read as follows:

(1) There is hereby created the Recreational Vehicle ***Advisory***[~~Certification and Licensure~~] Board which shall ***convene upon request of the department for the purpose of considering matters relating to recreational vehicles. The board shall make recommendations to and otherwise advise the department on these matters***[~~issue certificates of acceptability to qualifying manufacturers and licenses to dealers~~].

(2) The board shall consist of the state fire marshal, the secretary of the Transportation Cabinet, ***or a designee, and seven (7) members appointed by the commissioner of the department as follows: one (1) representative from the County Clerks Association,***[~~the commissioner of the Department for Public Health, or their designees, and six (6) citizens of the Commonwealth appointed by the Governor, which shall include~~] one (1) ***representative of manufacturers***[~~manufacturer~~] of recreational vehicles,[~~ and~~] two (2) ***members representing*** recreational vehicle dealers, and three (3) members who shall have no interest in the industry to be regulated.

(3) The state fire marshal ***and***[~~,~~] the secretary of the Transportation Cabinet[~~, and the commissioner of the Department for Public Health~~] shall be permanent members of the board, by virtue of their respective offices. The appointed members of the board shall hold office for terms of four (4) years with their terms expiring on September 1 of even-numbered years. Each member shall hold office until his successor is appointed and has qualified.

(4) In the initial appointments to the board, the ***commissioner of the department***[~~Governor~~] shall designate three (3) members to serve for two (2) years, and three (3) to serve for four (4) years.

(5) If a vacancy occurs in the office of one (1) of the members of the board, the position shall be filled by a person appointed by the ***commissioner of the department***[~~Governor~~], and the person so appointed shall serve only to the end of the unexpired term.

(6) The chairman of the board shall be the state fire marshal ***or a designee***.[~~ In the event of the chairman's absence or disability, the members of the board shall elect a temporary chairman by a majority vote of those present at a meeting.~~]

(7) Each appointed member shall be entitled to fifty dollars ($50) for each day he is in attendance at meetings or hearings or on authorized business of the board[~~, including time spent in traveling to and from the place of the meeting, hearing, or other authorized business~~]. Each member of the board shall also be entitled to reimbursement for ***in-state*** travel and other necessary expenses incurred in performing official duties.

[~~(8) The chairman, or in his absence a temporary chairman selected by the members of the board present at the meeting, shall preside at all meetings of the board. The board shall have regular meetings at times specified by a majority vote of the board. The chairman may call special meetings at any time. He shall call a special meeting on written request by two (2) or more members of the board. A majority of the board shall constitute a quorum to transact business.~~

~~(9) All staff assistance deemed necessary by the board to carry out the functions and duties assigned to it in KRS 227.550 to 227.660 shall be provided by the office and shall function under the supervision of the administrative head of the office.~~]

Section 3. KRS 227.570 is amended to read as follows:

(1) The office shall enforce such standards and requirements for the installation of plumbing, heating, and electrical systems in mobile homes***, park trailers,*** and[~~ for~~] recreational vehicles as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board or the ***department after receiving the recommendation of the*** Recreational Vehicle ***Advisory***[~~Certification and Licensure~~] Board.

(2) The office shall enforce such standards and requirements for the body and frame design, construction, and installation of mobile homes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public. These standards and requirements shall be those adopted by the Manufactured Home Certification and Licensure Board. If any part of 1976 Ky. Acts ch. 136 conflicts with Title 6 of the Federal Housing and Community Development Act of 1974, the federal act shall take precedence.

(3) New installations of manufactured homes and mobile homes shall be in accordance with the manufacturer's instructions or ANSI 225.1, Manufactured Home Installations.

SECTION 4. A NEW SECTION OF KRS CHAPTER 227 IS CREATED TO READ AS FOLLOWS:

(1) All recreational vehicles sold, leased, or offered for sale or lease by a dealer to a consumer in this state shall be constructed in accordance with ANSI A119.2/NFPA 1192, the Standard on Recreational Vehicles.

(2) All park trailers sold, leased, or offered for sale or lease by a dealer to a consumer in this state shall be constructed in accordance with ANSI A119.5, the Park Trailers standard.

Section 5. KRS 227.580 is amended to read as follows:

(1) It is unlawful for any manufacturer to manufacture, import, or sell manufactured homes***, park trailers,*** or recreational vehicles within this state unless such manufacturer has been issued a certificate of acceptability for such manufactured homes***, park trailers,*** or recreational vehicles from the office. This provision shall not, however, apply to manufactured homes~~[or recreational vehicles]~~ manufactured in this state and designated for delivery to and sale in a state that has a code that is inconsistent with KRS 227.550 to 227.660.

(2) ~~[The office shall require that the manufacturer establish and submit to the office for approval systems for quality control for recreational vehicles prior to the issuance of a certificate of acceptability.]~~

(a) The office shall issue a certificate of acceptability to any manufacturer within or without this state upon receipt of an application from such manufacturer to which is attached an affidavit certifying that any recreational vehicle manufactured by the applicant shall be built in compliance with the ***standards set forth in Section 4 of this Act***~~[applicable code adopted by the Recreational Vehicle Certification and Licensure Board]~~.

(b) Certificates of acceptability shall be numbered and a record shall be kept by the office, by number, of the certificates issued to manufacturers.

(3) No manufacturer ***of manufactured homes*** to which a certificate of acceptability has been issued shall modify in any way its manufacturing specifications without prior written approval of the office.

(4) The ***department may adopt and the*** office ***shall enforce administrative regulations for the administration of KRS 227.550 to 227.660***~~[may determine that the standards for recreational vehicles established by a state or a recognized body or agency of the federal government or other independent third party are at least equal to those standards adopted by the Recreational Vehicle Certification and Licensure Board. If the office finds that such standards are actually enforced then it may issue a certificate of acceptability for such recreational vehicles]~~.

Section 6. KRS 227.590 is amended to read as follows:

(1) The ***Manufactured Home Certification and Licensure*** Board shall make and the office shall enforce rules and regulations reasonably required to effectuate the provisions of KRS 227.550 to 227.660 ***relating to manufactured homes*** and to carry out their responsibilities as a state administrative agency for the enforcement and administration of the federal act.

(2)~~[At least thirty (30) days before the adoption or promulgation of any change in or addition to the rules and regulations authorized in subsection (5) of this section the office shall mail to all manufacturers possessing valid certificates of acceptability and dealers possessing valid licenses a notice including a copy of the proposed changes and additions and the time and place that the board will consider any objections to the proposed changes and additions. After giving the notice required by this section, the board shall afford interested persons an opportunity to participate in the rule making through submission of written data, views, or arguments with or without opportunity to present the same orally in any manner.~~

~~(3) Every rule or regulation or modification, amendment, or repeal of a rule or regulation adopted by the board shall state the date it shall take effect.~~

~~(4)]~~ Notwithstanding the provisions of KRS 227.550 to 227.660, the board shall have the authority to promulgate rules and regulations exempting manufacturers and dealers from the provisions of KRS 227.550 to 227.660 when manufactured homes, mobile homes, ***park trailers,*** and recreational vehicles are brought into this state for exhibition only.

(3)~~[(5)]~~All rules, regulations, codes, fees, and charges adopted by the board pursuant to KRS 227.550 to 227.660 shall be prepared and filed in accordance with KRS Chapter 13A.

(4)~~[(6)]~~The ***Manufactured Home Certification and Licensure*** Board***, or the department in the case of recreational vehicles,*** shall have the authority to promulgate rules and regulations to issue temporary licenses, not to exceed thirty (30) days, to out-of-state dealers for the purpose of participating in manufactured home and recreational vehicle shows in the Commonwealth of Kentucky.

Section 7. KRS 227.600 is amended to read as follows:

(1) No manufacturer who has received a certificate of acceptability from the office may sell or offer for sale in this state any recreational vehicles unless they bear ***either*** a ***Class A*** seal of approval issued by and purchased from the ***department or a seal indicating membership in the Recreation Vehicle Industry Association and stating the manufacturer's certification of compliance with ANSI A119.2/NFPA 1192***~~[office]~~.

(2) Seals~~[issued by the office shall be numbered and]~~ shall be affixed by the manufacturer to the ***outside of the*** recreational vehicle ***near the primary entrance***~~[in a conspicuous place]~~.

(3) Any dealer who has acquired a used manufactured home, mobile home***, park trailer,*** or recreational vehicle without a seal shall apply to the office for a Class B seal by submitting an affidavit that the unit has been brought up to or meets reasonable standards established by the board for used manufactured homes, mobile homes, ***park trailers,*** or recreational vehicles. Those manufactured homes or mobile homes taken in trade must be reinspected and certified. A numbered Class B seal shall be affixed by the dealer to the unit prior to sale. A seal will not be required if such dealer submits an affidavit that the unit will not be resold for use as such by the public. A dealer shall not transport or install a manufactured or mobile home which is to be used for residential purposes which does not have a Class A or Class B seal.

(4) The owner of any manufactured home or mobile home which is not covered by the federal act or a ***park trailer or a***

recreational vehicle purchased in another state and not bearing a seal ***as defined in subsection (1) or (3) of this section***[~~of approval~~] shall purchase a seal from the office. Application to purchase a seal of approval shall be made to the office or other person or agency authorized by the state fire marshal.

(5) The office shall make available suitable forms for application for seals of approval for new and used ***park trailers and*** recreational vehicles and for used manufactured homes or mobile homes which are not covered by the federal act[~~ and recreational vehicles~~].

(6) The clerk of the county in which a manufactured home, mobile home, ***park trailer***, or recreational vehicle is sought to be registered after ***the effective date of this Act***[~~June 1, 1976~~], which was purchased out of Kentucky, shall require[~~ production of proof of purchase of~~] a seal[~~ of approval~~] as provided in subsection (4) of this section before registering or issuing a license for any manufactured home, mobile home, ***park trailer,*** or recreational vehicle.

Section 8. KRS 227.610 is amended to read as follows:

The ***department***[~~office~~] shall license dealers under the provisions of KRS 227.550 to 227.660. The office may make the issuance of a license contingent upon the applicant's chief managing officer passing a test administered by the office.

Section 9. KRS 227.630 is amended to read as follows:

(1) A license or certificate of acceptability may be denied, suspended, or revoked on the following grounds:

(a) A showing of insolvency in a court of competent jurisdiction;

(b) Material misstatement in application for license or certificate of acceptability;

(c) Willful failure to comply with any provisions of KRS 227.550 to 227.660 or any rule or regulation promulgated by the board under KRS 227.550 to 227.660;

(d) Willfully defrauding any buyer;

(e) Willful failure to perform any written agreement with any buyer or dealer;

(f) Failure to have or to maintain an established place of business;

(g) Failure to furnish or maintain the required insurance;

(h) Making a fraudulent sale, transaction, or repossession;

(i) Employment of fraudulent devices, methods, or practices in connection with the requirements under the statutes of this state with respect to the retaking of goods under retail installment contracts and the redemption and resale of such goods;

(j) Failure by a dealer to put the title to a manufactured home, mobile home, ***park trailer,*** or recreational vehicle in his name after said dealer has acquired ownership of the manufactured home, mobile home, ***park trailer***, or recreational vehicle by trade or otherwise;

(k) Violation of any law relating to the sale or financing of manufactured homes, mobile homes, ***park trailers,*** or recreational vehicles.

(2) If a licensee is a firm or corporation, it shall be sufficient cause for the denial, suspension, or revocation of a license that any officer, director, or trustee of the firm or corporation, or any member in case of a partnership, has been guilty of any act or omission which would be cause for refusing, suspending, or revoking a license to such party as an individual. Each licensee shall be responsible for any or all of his salesmen while acting as his agent while the said agent is acting within the scope of his authority.

(3) Upon proceedings for the suspension of a license or certificate of acceptability for any of the violations enumerated in KRS 227.550 to 227.660, the licensee or holder of a certificate of acceptability may have the alternative, subject to the approval of the board, to pay in lieu of part or all of the days of any suspension the sum of fifty dollars ($50) per day. Payments in lieu of suspension collected by the board shall be deposited in the State Treasury and credited to the general expenditure fund.

Section 10. KRS 227.640 is amended to read as follows:

(1) The state fire marshal may deny the application for a license or certificate of acceptability within thirty (30) days after receipt thereof by written notice to the applicant, stating the grounds for such denial.

(2) No license or certificate of acceptability shall be suspended or revoked by the state fire marshal unless the licensee or certificate holder is afforded the opportunity for a hearing to be conducted in accordance with KRS Chapter 13B.

(3) Any manufacturer or licensed dealer who violates or fails to comply with KRS 227.550 to 227.660 or any administrative regulations promulgated thereunder shall be notified in writing setting forth facts describing the alleged violation and instructed to correct the violation, if it is correctable, within twenty (20) days. Should the manufacturer or dealer fail to make the necessary corrections within the specified time or if the violation is not correctable, the state fire marshal may, after notice and hearing in accordance with KRS Chapter 13B, suspend or revoke any certificate of acceptability or license if it finds that:

(a) The manufacturer or dealer has failed to pay the fees authorized by KRS 227.550 to 227.660; or that

(b) The manufacturer or dealer, either knowingly or without the exercise of due care to prevent the same, has violated any provision of KRS 227.550 to 227.660 or any administrative regulation or order lawfully made pursuant to and within the authority of KRS 227.550 to 227.660; or that

(c) The manufacturer has shipped or imported into this state a manufactured home, mobile home***, park trailer***, or recreational vehicle to any person other than to a duly licensed dealer.

(4) Any person aggrieved by any final order of the state fire marshal may appeal to the Franklin Circuit Court in accordance with KRS Chapter 13B.

Section 11. KRS 227.650 is amended to read as follows:

(1) The office is empowered to inspect all mobile homes which are not covered by the federal act ***and all park trailers*** and recreational vehicles for which[~~ it has issued~~] a seal ***is required***[~~of approval~~].

(2) The office may establish and require such training programs in the concept, techniques, and inspection of manufactured homes, mobile homes***, park trailers***, and recreational vehicles for the personnel of local governments, as the office considers necessary.

(3) The staff of the office, upon showing proper credentials and in the discharge of their duties pursuant to KRS 227.550 to 227.660 or the federal act, is authorized with the consent of the manufacturer or by proper warrant to enter and inspect all factories, warehouses, or establishments in this state in which manufactured homes are manufactured.

Section 12. KRS 227.660 is amended to read as follows:

The office, subject to the provisions of Chapter 18A and Chapter 64 of the Kentucky Revised Statutes, may set qualifications, employ, and fix the compensation of such state inspectors as the office deems necessary to carry out the functions of KRS 227.550 to 227.650. To carry out the provisions of KRS 227.550 to 227.650, the office may authorize the state inspectors to travel within or without the state for the purposes of inspecting the manufacturing facilities for manufactured homes***, park trailers,*** and recreational vehicles or for any other purpose in connection with KRS 227.550 to 227.650.

Section 13. KRS 227.992 is amended to read as follows:

Any person who willfully manufactures a manufactured home, sells, or offers for sale a manufactured home, mobile home***, park trailer***, or recreational vehicle in this state in violation of the provisions of KRS 227.560 to 227.660 shall be guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than one thousand dollars ($1,000) or by confinement in the county jail for a period of not more than thirty (30) days, or both.

HB 698, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 78.540 is amended to read as follows:

Membership in the system shall consist of the following:

(1) All persons who become employees of a participating county after the date the county first participates in the system, except a person who did not elect membership pursuant to KRS 61.545(3), and except that mayors and members of city legislative bodies may decline prior to their participation in the system and city managers or other appointed local government executives who participate in a retirement system, other than Social Security, which operates in more than one (1) state, may decline prior to their participation in the system;

(2) All persons who are employees of a county on the date the county first participates in the system, either in service or on authorized leave from service, and who elect within thirty (30) days next following the county's participation, or in the case of persons on authorized leave, within thirty (30) days of their return to active service, to become members and thereby agree to make contributions as provided in KRS 78.520 to 78.852;[~~ and~~]

(3) ***All persons who declined participation in subsection (1) of this section and who later elect to participate, provided they have ten (10) or more years of current and continuous service with a participating county. Persons who elect to participate under this subsection shall purchase service credit for any prior years of service at the full actuarial cost, as determined by the board. The service shall not be included in the member's total service for purposes of determining benefits under KRS 61.702; and***

(4) All persons electing coverage in the system under KRS 78.530(3)(d).

(5)[~~(4)~~]The provisions of subsections (1) and (2) of this section notwithstanding, cities which participate in the CERS and close existing local pension systems to new, or all members pursuant to the provisions of KRS 78.530, 95.520, 95.621 or 95.852 shall not be required to provide membership in the County Employees Retirement System to employees in any employee category not covered by a city pension system at the date of participation.

(6)[~~(5)~~]Membership in the system shall not include those employees who are simultaneously participating in another state-administered defined benefit plan within Kentucky other than those administered by the Kentucky Retirement Systems, except for employees who have ceased to contribute to one (1) of the state-administered retirement plans as provided in KRS 21.360.

HB 712, AN ACT relating to the legislative ethics code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 6.656 is amended to read as follows:

(1) The chair and the vice chair of the commission shall be elected by a majority vote of the members of the commission. The chair and the vice chair shall serve terms of one (1) year and may be reelected. The chair shall preside at meetings of the commission. The vice chair shall preside in the absence or disability of the chair.

(2) The commission shall meet within ninety (90) days of February 18, 1993. The time and place of the meeting shall be determined by the chair. Thereafter, the commission shall meet at such times deemed necessary at the call of the chair or a majority of its members. A quorum shall consist of five (5) or more members. An affirmative vote of five (5) or more members shall be necessary for commission action.

(3) A member of the commission shall receive one hundred dollars ($100) per day ***and reimbursement***[~~for attending meetings and shall be reimbursed~~] for actual and necessary expenses incurred in the performance of his official duties as a member of the commission ***for meeting days and for a maximum of two (2) nonmeeting days per month devoted to commission-related work***.

Section 2. KRS 6.686 is amended to read as follows:

(1) (a) The commission shall have jurisdiction to investigate and proceed as to any violation of this code upon the filing of a complaint. The complaint shall be a written statement ***alleging a violation against one (1) or more named persons and stating***[~~of~~] the essential facts constituting the violation charged. The complaint shall be made under oath and signed by the complaining party before a person who is legally empowered to administer oaths. The commission shall have no jurisdiction in absence of a complaint. A member of the commission may file a complaint.

(b) Within ten (10) days of the filing of a complaint, the commission shall cause a copy of the complaint to be served by certified mail upon the person alleged to have committed the violation.

(c) Within twenty (20) days of service of the complaint the person alleged to have committed the violation may file an answer with the commission. The filing of an answer is wholly permissive, and no inferences shall be drawn from the failure to file an answer.

(d) Not later than ten (10) days after the commission receives the answer, or the time expires for the filing of an answer, the commission shall initiate a preliminary inquiry into any alleged violation of this code. If the commission determines that the complaint fails to state a claim of an ethics violation, the complaint shall be dismissed.

(e) Within thirty (30) days of the commencement of the inquiry, the commission shall give notice of the status of the complaint and a general statement of the applicable law to the person alleged to have committed a violation.

(2) All commission proceedings, including the complaint and answer and other records relating to a preliminary inquiry, shall be confidential until a final determination is made by the commission, except:

(a) The commission may turn over to the Attorney General, the United States Attorney, Commonwealth's attorney, or county attorney of the jurisdiction in which the offense allegedly occurred, evidence which may be used in criminal proceedings; and

(b) If the complainant or alleged violator publicly discloses the existence of a preliminary inquiry, the commission may publicly confirm the existence of the inquiry and, in its discretion, make public any documents which were issued to either party.

(3) The commission shall afford a person who is the subject of a preliminary inquiry an opportunity to appear in response to the allegations in the complaint. The person shall have the right to be represented by counsel, to appear and be heard under oath, and to offer evidence in response to the allegations in the complaint.

(4) If the commission determines by the answer or in the preliminary inquiry that the complaint does not allege facts sufficient to constitute a violation of this code, the commission shall immediately terminate the matter and notify in writing the complainant and the person alleged to have committed a violation. The commission may confidentially inform the alleged violator of potential violations and provide information to ensure future compliance with the law. If the alleged violator publicly discloses the existence of such action by the commission, the commission may confirm the existence of the action and, in its discretion, make public any documents that were issued to the alleged violator.

(5) If the commission, during the course of the preliminary inquiry, finds probable cause to believe that a violation of this code has occurred, the commission shall notify the alleged violator of the finding, and the commission may, upon majority vote:

(a) Due to mitigating circumstances such as lack of significant economic advantage or gain by the alleged violator, lack of significant economic loss to the state, or lack of significant impact on public confidence in government, confidentially reprimand, in writing, the alleged violator for potential violations of the law and provide a copy of the reprimand to the presiding officer of the house in which the alleged violator serves, or the alleged violator's employer, if the alleged violator is a legislative agent. ***The proceedings leading to a confidential reprimand and the reprimand itself shall remain confidential except that,*** if the alleged violator publicly discloses the existence of such an action, the commission may confirm the existence of the action and, in its discretion, make public any documents which were issued to the alleged violator; or

(b) Initiate an adjudicatory proceeding to determine whether there has been a violation.

(6) Any person who knowingly files with the commission a false complaint of misconduct on the part of any legislator or other person shall be guilty of a Class A misdemeanor.

Section 3. KRS 6.691 is amended to read as follows:

(1) The Kentucky Rules of Civil Procedure and the Kentucky Rules of Evidence shall apply to all commission adjudicatory hearings. All testimony in a commission adjudicatory proceeding shall be under oath. All parties shall have the right to call and examine witnesses, to introduce exhibits, to cross-examine witnesses, to submit evidence, and to be represented by counsel and any other due process rights, privileges, and responsibilities of a witness appearing before the courts of the Commonwealth of Kentucky. Before testifying, all witnesses shall be given a copy of the regulations governing commission proceedings. All witnesses shall be entitled to be represented by counsel.

(2) Any person whose name is mentioned during adjudicatory proceedings of the commission and who may be adversely affected thereby may appear personally before the commission on the person's own behalf, with or without attorney, to give a statement in opposition to such adverse mention or file a written statement of that opposition for incorporation into the record of proceeding.

(3) All adjudicatory proceedings of the commission carried out pursuant to the provisions of this section shall be public, unless the members vote to go into executive session in accordance with KRS 61.810.

(4) Within thirty (30) days after the end of an adjudicatory proceeding pursuant to the provisions of this section, the commission shall meet in executive session for the purpose of reviewing the evidence before it. Within thirty (30) days after completion of deliberations, the commission shall publish a written report of its findings and conclusions which shall be based on whether the person accused has complied with the statute as written.

(5) ***No penalty provided for in this section shall be imposed except as the result of an adjudicatory proceeding held upon the filing of a complaint. Notwithstanding the administrative penalties provided for in Sections 6, 7, and 8 of this Act,*** the commission, upon a finding pursuant to an adjudicatory proceeding that there has been clear and convincing proof of a violation of this code, may:

(a) Issue an order requiring the violator to cease and desist the violation;

(b) Issue an order requiring the violator to file any report, statement, or other information as required by this code;

(c) In writing, publicly reprimand the violator for potential violations of the law and provide a copy of the reprimand to the presiding officer of the house in which the alleged violator serves;

(d) In writing, recommend to the house in which the violator serves that the violator be sanctioned as recommended by the commission, which may include a recommendation for censure or expulsion;

(e) Issue an order requiring the violator to pay a civil penalty of not more than two thousand dollars ($2,000); or

(f) Revoke the registration of any legislative agent or employer for a period not to exceed five (5) years. ***During the period of the revocation, the agent or employer or any other entity which constitutes nothing more than the legislative agent or employer operating under a different name or identity shall not be permitted to register as a legislative agent or employer.***

(6) The commission may refer to the Attorney General, county attorney, or Commonwealth's attorney of the appropriate jurisdiction, for prosecution evidence of criminal violations of this code. The Attorney General shall have responsibility for all prosecutions under the law and may request from the commission all evidence collected in its investigation.

(7) Findings of fact or final determinations by the commission that a violation of this code has been committed, or any testimony related to the commission's findings of fact or final determinations, shall not be admissible in criminal proceedings in the courts of the Commonwealth of Kentucky. Evidence collected by the commission may be used in a criminal proceeding if otherwise relevant.

(8) Any person found by the commission to have committed a violation of this code may appeal the action to the Franklin Circuit Court. The appeal shall be initiated within thirty (30) days after the date of the final action of the commission by filing a petition with the court against the commission. The commission shall transmit to the clerk of the court all evidence considered by the commission at the public hearing. The court shall hear the appeal upon the record as certified by the commission.

Section 4. KRS 6.711 is amended to read as follows:

(1) The commission shall design the general curriculum of orientation courses, which shall include, but not be limited to, explanations and discussions of the ethics laws, administrative regulations, relevant internal policies, specific technical and legal requirements, summaries of advisory opinions, underlying purposes and principles of ethics laws, examples of

practical application of the laws and principles, and a question-and-answer participatory segment regarding common problems and situations. The commission shall prepare the methods and materials necessary to implement the curriculum.

(2) The commission shall:

(a) Administer the orientation courses for legislators;

(b) Designate instructors to conduct their courses who shall be trained by the commission; and

(c) Notify legislators regarding attendance in these courses.

(3) The orientation courses shall be conducted in January of each odd-numbered year. Each course shall be at least ***three (3)***~~[six (6)]~~ hours in length and shall be designed for approval by the Kentucky Bar Association for continuing legal education ethics credits which the bar association may require.

(4) To facilitate participant interaction, those portions of the courses dedicated to group participation shall be closed to the public.

(5) Each legislator shall complete the initial orientation course offered under this section. Each legislator elected after the initial orientation course shall complete the next orientation course conducted. The commission may grant permission for a legislator to attend a later course for good cause shown.

Section 5. KRS 6.793 is amended to read as follows:

(1) The statement of financial interests required by KRS 6.781 shall be filed with the commission for the preceding calendar year by no later than February 15 of each year, complete through December 31 of the preceding year, except that:

(a) A candidate for nomination or election to the General Assembly shall file his statement no later than twenty-one (21) days after the ***filing deadline as set by the law or within ten (10) days of the filing deadline if it is a special election*** date he became a candidate as defined in KRS 6.611; and

(b) An individual appointed to a position listed in KRS 6.781(3) shall file his initial statement no later than twenty-one (21) days after the date of his appointment.

(2) The commission may grant a reasonable extension of time for filing a statement of financial interests for good cause shown.

Section 6. KRS 6.797 is amended to read as follows:

(1) The commission shall notify by certified mail each person required to file a statement of financial interests who fails to file the statement in a timely manner, completely, or in the form required by the commission. The notice shall specify the type of failure or delinquency and shall advise the person of the penalties for violation of this section.

(2) (a) Any person who fails to file the statement or who fails to remedy a deficiency in his filing identified by the commission in the notice under subsection (1) of this section in a timely manner may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000) ***without the necessity of a complaint being filed, notwithstanding Section 2(1)(a) of this Act, but only after notice has been given to the alleged violator of the intent of the commission to impose a fine, including the amount of the fine, and an opportunity has been afforded the alleged violator to appear before the commission or otherwise offer evidence as he may choose in mitigation of the imposition of the fine***.

(b) Any person who intentionally files a statement of financial interests which he knows to contain false information or to omit required information shall be guilty of a Class A misdemeanor.

Section 7. KRS 6.807 is amended to read as follows:

(1) Each legislative agent and employer, within seven (7) days following engagement of a legislative agent, shall file with the commission an initial registration statement listing the following:

(a) The name, business address and telephone number, and occupation of the legislative agent;

(b) The name, brief description of the nature of the business, nature and identity of the organized association, coalition, or public interest entity, business address and telephone number of the employer, and the real party in interest on whose behalf the legislative agent is lobbying, if it is different from the employer. For the purposes of this section, if a trade association or other charitable or fraternal organization that is exempt from federal income taxation under Section 501(c) of the Internal Revenue Code is the employer, the statement shall not list the names and addresses of each member of the association or organization, if the association or organization itself is listed;

(c) The name, bill number, or a brief description of the legislative action for which the legislative agent is or will be engaged in lobbying on behalf of their employer or as a representative of the organized association, coalition, or public interest entity;

(d) The date on which the legislative agent was engaged; and

(e) Certification by the employer and legislative agent that the information contained in the registration statement is complete and accurate.

(2) The registration shall be valid through the next thirty-first day of December of an odd-numbered year, unless previously

terminated.

(3) (a) In addition to the initial registration statement required by subsection (1) of this section, each legislative agent and employer shall file an updated registration statement with the commission to be received by the commission, not later than 4 p.m. on the fifteenth day of January, February, March, April, and May, and the fifteenth day of September of each even-numbered year, and the fifteenth day of January, May, and September in each odd-numbered year, for the period since the end of the period covered by the previous report until the last day of the month preceding the filing date. The commission may grant a reasonable extension of time for filing the updated registration statement for good cause shown.

(b) The updated registration statement shall confirm the continuing existence of each engagement described in an initial registration statement, and list the specific bills or resolutions on which the agent lobbied under that engagement during the period covered by the updated statement. Any statement of expenditures required to be filed by KRS 6.821 and any details of financial transactions required to be filed by KRS 6.824 shall be filed with the updated registration statement.

(4) If a legislative agent is engaged by more than one employer, the agent shall file a separate initial and updated registration statement for each engagement. If an employer engages more than one (1) legislative agent, the employer shall file only one (1) updated registration statement under subsection (3) of this section, which shall contain the information required by subsection (3) of this section regarding all legislative agents engaged by the employer.

(5) (a) A change in any information required by subsection (1)(a), (b), or (c) of this section shall be reflected in the next updated registration statement filed under subsection (3) of this section.

(b) Within thirty (30) days after the termination of an engagement, the legislative agent who was employed under the engagement shall file written notice of the termination with the commission.

(c) If the termination of a legislative agent leaves an employer without the engagement of any legislative agents, within thirty (30) days after the termination, the employer shall file written notice with the commission of its intent to terminate its current registration.

(6) Upon registration pursuant to subsection (1) of this section, the legislative agent shall be issued a card by the commission, showing that the legislative agent is registered. The registration card shall be valid from the date of its issuance through the next thirty-first day of December of an odd-numbered year.

(7) Any legislative agent or employer who fails to file the initial registration statement or updated registration statement, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000) ***without the necessity of a complaint being filed, notwithstanding Section 2(1)(a) of this Act, but only after notice has been given to the alleged violator of the intent of the commission to impose a fine, including the amount of the fine, and an opportunity has been afforded the alleged violator to appear before the commission or otherwise offer evidence as he may choose in mitigation of the imposition of the fine***.

(8) Any legislative agent or employer who intentionally fails to register shall be guilty of a Class D felony.

Section 8. KRS 6.821 is amended to read as follows:

(1) With the updated registration statement required by KRS 6.807(3), each legislative agent, or representative of an organized association, coalition, or public interest entity, and each employer shall file a statement of expenditures as provided in subsections (2), (3), and (4) of this section. A representative of an organized association, coalition, or public interest entity shall identify the source of the entity or association's funds and financial resources. A legislative agent shall file a separate statement of expenditures for each employer engaging him.

(2) If an employer or any legislative agent whom he engaged made expenditures, either separately or in combination with each other, either directly or indirectly, for food and beverages consumed on the premises on behalf of any particular member of the General Assembly or his immediate family, the employer or legislative agent shall also state the following:

(a) The name of the legislator or member of his immediate family on whose behalf the expenditures were made;

(b) The total amount of the expenditures made;

(c) A brief description of the expenditures made; and

(d) The approximate date the expenditures were made.

(3) In addition to the information required by subsection (2) of this section, a statement filed by a legislative agent shall show:

(a) The total amount of lobbying expenditures made by the legislative agent during the reporting period covered by the statement, whether or not reimbursed by the employer; and

(b) Cumulative amounts, except personal expenses, expended by the legislative agent for food, beverages, lodging, transportation, entertainment, and other expenses directly associated with the legislative agent's lobbying activities during the reporting period.

(4) (a) In addition to the information required by subsection (2) of this section, a statement filed by an employer shall list:

1. The total amount of lobbying related expenditures made by the employer filing the statement during the period covered by the statement;

2. A complete and itemized account of all amounts expended for receptions or other events held under subsection (5) of this section, including the date and location of the event and the name of the group of public servants invited to the event;

3. A complete and itemized account of all other amounts expended for lobbying, including food and lodging expenses and reimbursements, and not including personal expenses incurred by an employer or a legislative agent; and

4. The cumulative compensation paid to legislative agents, prorated to reflect the time the legislative agents were engaged in lobbying during the period covered by the statement.

(b) No employer is required to show any expenditure on a statement filed under this subsection if the expenditure is reported on a statement filed under subsection (2) of this section by a legislative agent engaged by the employer.

(5) (a) Any statement required to be filed under this section shall be filed at the times specified in KRS 6.807. Each statement shall cover expenditures made during the period that ended on the last day of the month immediately preceding the month in which the statement is required to be filed.

(b) No portion of the amount of an expenditure for a dinner, party, or other function sponsored by an employer or legislative agent shall be attributed to, or counted toward the amount for a calendar year if the event qualifies under KRS 6.611(2)(b)8., 11., or 12.

(c) The amount spent for a function described in paragraph (b) of this subsection shall be added with other expenditures to determine the total amount of expenditures reported in the statement under subsections (2) and (3) of this section.

(d) If it is impractical or impossible for a legislative agent or employer to determine exact dollar amounts or values of expenditures, reporting of good faith estimates, based upon reasonable accounting procedures, constitutes compliance with this subsection.

(6) All legislative agents and employers shall retain receipts or maintain records for all expenditures that are required to be reported pursuant to this section. These receipts or records shall be maintained for a period ending on the thirty-first day of December of the second calendar year after the year in which the expenditure was made.

(7) Any legislative agent or employer who fails to file a required statement of expenditures, or who fails to remedy any deficiency in his filing in a timely manner may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000) ***without the necessity of a complaint being filed, notwithstanding Section 2(1)(a) of this Act, but only after notice has been given to the alleged violator of the intent of the commission to impose a fine, including the amount of the fine, and an opportunity has been afforded the alleged violator to appear before the commission or otherwise offer evidence as he may choose in mitigation of the imposition of the fine***.

(8) Any legislative agent or employer who intentionally files a statement of expenditures which he knows to contain false information or to omit required information shall be guilty of a Class D felony.

HB 713, AN ACT relating to state government employment.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.150 is amended to read as follows:

(1) Any[~~ honorably discharged~~] soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, ***and was separated under honorable conditions*** shall have five (5) points added to ***the veteran's***[~~his~~] entrance examination score for classified positions. Any Kentucky National Guard member, or a former member of the Kentucky National Guard who has been ***separated under honorable conditions***[~~honorably discharged~~], shall be entitled to the same number of points.

(2) Any[~~ honorably discharged~~] soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, ***and separated under honorable conditions*** whom the Veterans Administration or any branch of the Armed Forces of the United States determines has service-connected disabilities, shall have ten (10) points added to ***the veteran's***[~~his~~] entrance examination score for a classified position.

(3) The spouse of ***a***[~~an honorably discharged~~] soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment ***and separated under honorable conditions*** who would be eligible for a ten (10) point preference, and whose service-connected disability disqualifies ***the veteran***[~~him~~] for positions along the general line of ***the veteran's***[~~his~~] usual occupation shall have ten (10) preference points added to ***the spouse's***[~~his~~] entrance examination score for a classified position. In such a case, the spouse

loses the right to preference if the disabled[~~ war~~] veteran recovers.

(4) Until remarriage, the surviving spouse of ***a***[~~an honorably discharged~~] soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment ***and was separated under honorable conditions***, shall have ten (10) preference points added to ***the spouse's***[~~his~~] entrance examination score for a classified position. This includes the surviving spouse of any military personnel who died while in the Armed Forces, unless circumstances surrounding the death would have been cause for other than[~~ honorable discharge~~] separation ***under honorable conditions***.

(5) A parent totally or partially dependent on a soldier, sailor, marine, member of the Air Force, or member of any other branch of the military service who was inducted into that service through voluntary or involuntary enlistment, and who lost his ***or her*** life under honorable conditions while on active duty or active duty for training purposes, or who became permanently and totally disabled as a result of a service-connected disability, shall have ten (10) preference points added to ***the parent's***[~~his~~] examination score for a classified position.

(6) The preference points granted by subsections (1) through (5) of this section shall be added to entrance examination scores for classified positions only if the score is determined by the secretary to be a passing score and after verification of the required service. The total of the entrance examination score and the preference points shall not exceed one hundred (100).

(7) Any veteran, veteran's spouse, or veteran's parent who qualifies for preference points under the provisions of subsections (1) to (5) of this section and with the provisions of 5 U.S.C. sec. 2108 and 5 C.F.R. ch. 1, part 211, and who is presently employed by the Commonwealth of Kentucky and applying for another classified position within state government shall be granted preference as follows:

(a) The application of the qualifying veteran, veteran's spouse, or veteran's parent when transmitted to the applicable state agency for employment consideration shall be clearly identified as qualified for the veteran's preference permitted under subsections (1) to (5) and (7) of this section; and

(b) A veteran, veteran's spouse, or veteran's parent who meets the minimum standard qualifications for the position shall be granted an initial interview for the position sought.

HB 733, AN ACT relating to professional engineers and land surveyors.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 322.290 is amended to read as follows:

The board shall:

(1) Administer this chapter;

(2) Adopt an official seal;

(3) Provide suitable office quarters at its own expense;

(4) Adopt and amend all bylaws and rules of procedure, and promulgate administrative regulations, consistent with the Constitution and laws of the state and reasonably necessary for the proper performance of its duties and the regulation and fair conduct of the proceedings before it;

(5) Appoint an executive director and assistant executive directors and fix their compensation;

(6) Employ any clerk or other assistants necessary for the proper performance of its work;

(7) Appoint a general counsel and any assistant general counsel as it deems necessary and fix their compensation;

(8) Appoint investigatory personnel, as it deems necessary, and fix their compensation;

(9) Appoint committees of licensees, as it deems necessary, to review issues before the board and make recommendations to the board;

(10) Make expenditures, as it deems necessary, for any purpose that it considers reasonably necessary for the proper performance of its duties, including paying the expenses of the board's delegates to national conventions of and membership dues to the National Council of Examiners for Engineering and Surveying or other affiliated national boards or societies;

(11) Adopt and promulgate by administrative regulation a code of professional practice and conduct, which shall be based upon generally recognized principles of professional ethical conduct and binding upon persons licensed under this chapter. A code of professional practice and conduct shall be made known to all licensees and applicants and shall include, but not be limited to, the following objectives:

(a) The protection of the public health, safety, and welfare;

(b) The maintenance of standards of objectivity, truthfulness, and reliability in public statements;

(c) The avoidance of conflicts of interest;

(d) The prohibition of solicitation or acceptance of engineering or land surveying work on any basis other than qualifications for the work offered;

(e) The prohibition of association with any person engaging in illegal or dishonest activities; and

(f) The limitation of professional service to the area of competence of the licensee;

(12) Adopt appropriate standards of practice;

(13) ***Promulgate administrative regulations in accordance with KRS Chapter 13A to establish rules for the use of stamps, seals, and signatures in electronic transactions.***

(14) Bring, in its name, injunctive proceedings in the Franklin Circuit Court to enjoin any person, business entity, or combination thereof in violation of KRS 322.020 or KRS 322.060; and

(15)[~~(14)~~] Adopt a program for continuing education for its individual land surveyor licensees. No individual land surveyor licensee shall be permitted to renew his or her license unless the minimum annual continuing education requirements are met, in addition to any other requirement for renewal. The program for continuing education shall not exceed a total of eight (8) credit clock hours per year and shall not include testing or examination of the licensee in any manner.

Section 2. KRS 322.340 is amended to read as follows:

(1) Each professional engineer or professional land surveyor shall, upon licensure, obtain a seal or stamp of the design authorized by the board, bearing his or her name, license number, and the words "Licensed Professional Engineer" or "Licensed Professional Land Surveyor."

(2) ***Use of the stamp, seal, or signature in an electronic transaction shall be conducted in accordance with administrative regulations promulgated by the board under subsection (13) of Section 1 of this Act.***

(3) The seal or stamp, signature, and the date shall be used to provide certification for all reports, specifications, drawings, and plans, if presented to a client or any public or governmental agency. Reproduction of original signatures shall be adequate to meet the requirements of this subsection.

[~~(3) No report, specification, drawing, or plan furnished on electronic media shall include, or have affixed thereto, an electronic reproduction of the stamp, seal, or signature.~~

~~(a) An original seal or stamp, signature, and the date shall be placed on a printed copy produced by electronic media for all reports, specifications, drawings, and plans.~~

~~(b) The copy produced by electronic media shall have the following inserted in lieu of an original seal or stamp, signature, and date: "This shall not be considered a certified document. This document, originally issued, sealed, and signed by (name of sealer), Kentucky Professional (Engineer or Land Surveyor), No. (License Number), on (date of sealing or stamping), shall not be used in lieu of a certified document."~~]

(4) The seal or stamp and signature shall be used by licensees only if the work being stamped was under the licensee's complete direction and control.

(5) Every survey plat and physical description prepared by a professional land surveyor and submitted to a client or any public or governmental agency shall display the certification by the professional land surveyor under whose supervision the plat or description was prepared.

(6) It shall be unlawful for a licensee to affix, or permit to be affixed, his or her seal, stamp, or signature to any document described in subsections (2), (3), or (5) of this section:

(a) After the expiration of a license; or

(b) For the purpose of aiding or abetting any other person to evade or attempt to evade any provisions of this chapter.

(7) A professional engineer shall check and have complete dominion and control of the design and engineering work of any engineer not licensed to practice in this state. Complete dominion and control shall include possession of the sealed and signed reproducible construction documents with all supporting design calculations, indicating all changes in the design.

HB 737, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.535 is amended to read as follows:

(1) The membership of any person in the system shall cease:

(a) Upon withdrawal of his accumulated contributions at or any time after termination of employment, regardless of length of service;

(b) Upon disability retirement;

(c) Upon service retirement;

(d) Upon death;[~~ and~~]

(e) ***For persons hired prior to August 1, 2000,*** upon termination of employment with prejudice***; or***

(f) For persons hired on or after August 1, 2000, upon conviction of a felony relating to the person's employment as provided in subsection (3) of this section.

(2) For purposes of KRS 61.510 to 61.705, 16.505 to 16.652 and 78.510 to 78.852, termination of employment with prejudice shall mean termination as the result of conviction of the member in a court of competent jurisdiction of embezzlement or larceny of public funds or property or malfeasance in office, or the forcing of a member to make restitution for any funds or property criminally taken by said member at the time of termination of employment.

(3) Notwithstanding any provision of law to the contrary, an employee hired on or after August 1, 2000, who participates in one (1) of the retirement systems administered by the Kentucky Retirement Systems and who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefit shall be forfeited.

Section 2. KRS 161.470 is amended to read as follows:

(1) The membership of the retirement system shall consist of all new members, all present teachers, and all persons participating under the retirement system as of June 30, 1986, except as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29. The board of trustees of the Teachers' Retirement System shall be responsible for final determination of membership eligibility and may direct employers to take whatever action that may be necessary to correct any error relating to membership.

(2) Service credit shall be forfeited upon withdrawal. If a member again enters service it shall be as a new member, except that any teacher who withdraws by claiming his deposits may repay the system the amount withdrawn plus interest and reestablish his service credit as provided in subsection (3) of this section.

(3) Effective July 1, 1988, and thereafter, an active contributing member of the retirement system with contributing service equal to one (1) year may regain service credit by depositing in the teachers' savings fund the amount withdrawn with interest at the rate to be set by the board of trustees, and computed from the first of the month of withdrawal and including the month of redeposit.

(4) Effective July 1, 1974, any active contributing member with at least two (2) years of contributing service credit who declined membership as provided in Acts 1938 (1st Ex. Sess.), Ch. 1, paragraph 29, may secure service credit for prior service, and for any subsequent service prior to date of membership, by depositing in the teachers' savings fund contributions for each year of subsequent service prior to date of membership, with interest at the rate of eight percent (8%) compounded annually to the date of deposit.

(5) Membership in the retirement system shall be terminated:

(a) By retirement for service;

(b) By death;

(c) By withdrawal of the member's accumulated contributions;[~~ or~~]

(d) When a member, having less than five (5) years of Kentucky service is absent from service for more than three (3) consecutive years***; or***

(e) For persons hired on or after August 1, 2000, when a member is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment as provided in subparagraph 1. and 2. of this paragraph.

1. Notwithstanding any provision of law to the contrary, a member hired on or after August 1, 2000, who is convicted, in any state or federal court of competent jurisdiction, of a felony related to his employment shall forfeit rights and benefits earned under the retirement system, except for the return of his accumulated contributions and interest credited on those contributions.

2. The payment of retirement benefits ordered forfeited shall be stayed pending any appeal of the conviction. If the conviction is reversed on final judgment, no retirement benefits shall be forfeited.

Except for paragraph (e) of this subsection, upon termination of member accounts under this subsection, funds in the account shall be transferred to the guarantee fund. Inactive members may apply for refunds of these funds at any time. The terminated service shall be reinstated, if not withdrawn by the member, in the event that the member returns to active contributing service.

(6) In case of withdrawal from service prior to eligibility for retirement, the board of trustees shall on request of the member return all of his accumulated contributions with regular interest, including any payments made by the member to the state accumulation fund, but the member shall have no claim on any contributions made by the state with a view to his retirement or to contributions made to the medical insurance fund. If the member is eligible for an immediate service retirement allowance as provided in KRS 161.600, no withdrawal and refund shall be permitted, unless the allowance would prohibit the member from qualifying for Social Security benefits or the member elects to withdraw part or all of his service for the purpose of obtaining credit in another retirement plan. Requests for refund of contributions by the member

must be filed on forms prescribed by the Teachers' Retirement System and the employer shall be financially responsible for all information that is certified on the prescribed form.

(7) Except as provided in KRS 161.520 and 161.525, in case of death prior to retirement, the board of trustees shall pay to the estate of the deceased member or to his assigns all of his accumulated contributions, with regular interest, including any payments made by the member to the state accumulation fund, but the estate or assigns shall have no claim on any contributions made by the state with a view to the retirement of the member or to contributions made to the medical insurance fund.

(8) Any active contributing member of the Kentucky Employees Retirement System, the County Employees Retirement System, the State Police Retirement System, or the Judicial Retirement System may use service, under that retirement system for the purpose of meeting the service requirement of subsections (3) and (4) of this section.

The Committee Amendment No, 1 to **HB 737** is as follows:

On page 2, line 2, by inserting after the period the following: "***The employer shall notify the retirement system when an employee is convicted under the provisions of this subsection.***".

HCR 54, A CONCURRENT RESOLUTION directing a study of limiting bill requests or introductions.

WHEREAS, the Kentucky General Assembly's regular sessions are limited to sixty legislative days every two years; and

WHEREAS, it is crucial to conserve legislative time for substantive policy proposals; and

WHEREAS, at least twenty-one state legislative chambers currently impose limits on members' bill requests or bill introductions; and

WHEREAS, respondents to a National Conference of State Legislatures' survey indicated that introduction limits have generally been successful in reducing the number of bills entering the legislative process; and

WHEREAS, it appears that a bill request or bill introduction deadline might streamline the legislative process and reduce staff, bill processing, and paper costs;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on State Government shall conduct a study of the feasibility and advisability of establishing a limit on the number of bills members of the General Assembly may request or may introduce in a legislative session. The study shall include examination of the experiences of other states with bill request or bill introduction limits. The Committee shall report its findings and recommendations to the Legislative Research Commission prior to the 2001 Organizational Session of the General Assembly.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agriculture and Natural Resources: **HB 778, HB 855, HJR 121**

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (continued)

The Committee on Rules reported that **HB 161, HB 579, HB 641, HB 354, HCR 88, SB 14,** and **HB 220** have been posted for passage in the Orders of the Day for March 1, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 599, HB 430**

Representative Stumbo moved that the rules be suspended to allow comments on Leap Day from female members of the House. Agreed.

Representative Stein moved that the rules be suspended to allow floor privileges to guests and to act upon a Legislative Citation. Agreed.

Representative Stein moved the adoption of **Legislative Citation No. 77**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest congratulations to the University of Kentucky Wildcat Cheerleading Squad for phenomenal athletic performance that resulted in this amazing group of athletes winning the 2000 Universal Cheerleaders Association's National College Cheerleading Championship for NCAA Division 1-A schools. Having won this prestigious title an unprecedented ten times and holding the distinction of being both the only squad to twice win back to back championships and to win the title for six years in a row, this outstanding team has achieved national recognition as one of the elite cheerleading programs in the nation. In addition to receiving substantial media coverage for their many competitive achievements including appearances on national news shows, being featured on the covers of various magazines and making television appearances, all the while enthusiastically supporting the Wildcat athletic teams, the UK cheerleaders also serve as model students in the classroom and give generously of their time to various charitable organizations. The members of this honorable body are delighted to join with Representative Kathy Stein and Representative Charles R. Walton in applauding the University of Kentucky Wildcat Cheerleading Squad for this remarkable athletic accomplishment, in commending its members and coaching staff for the honor and esteem they have brought to both the University of Kentucky and the entire Commonwealth and in extending a hearty welcome as they visit the House Chambers to witness a day in the 2000 Regular Session of the Kentucky General Assembly.

Legislative Citation No. 77 was adopted without objection.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 105** and **SCR 15** have been examined and found correctly enrolled. Said Bill and Resolution were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time - 2:50 p.m.)

Orders of the Day

HB 541, with Committee Amendments and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved the adoption of Committee Amendment No. 1 to **HB 541**. Agreed.

Representative Moberly moved that **HB 541**, as amended, be passed.

On the roll call the vote was: **Yeas 74, Nays 17**. (See February 29, 2000 roll call on **HB 541** - Appendix.)

HB 541, as amended, was passed.

Representative Moberly moved the adoption of the Committee Amendment No. 2 Title. Agreed; and the Title was agreed to.

Representative Moberly moved that the vote by which **HB 541**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 536 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved that **HB 536** be passed.

On the roll call the vote was: **Yeas 92, Nays 0**. (See February 29 , 2000 roll call on **HB 536** - Appendix.)

HB 536 was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 536** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

HB 106, HB 108, HB 110, HB 194, HB 218, HB 219, HB 236, HB 376, HB 404, HCR 34, HCR 45, HJR 41, HJR 42, HJR 59, and **HJR 66** delivered to the Senate and signed by the President. Delivered to the Governor on February 29, 2000 at 2:45 p.m.

Orders of the Day (continued)

HB 631, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 631**. Agreed.

Representative Thomas moved the adoption of Floor Amendment No. 1 to the Committee Substitute to HB 631. Agreed

Representative Thomas moved that **HB 631**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 29, 2000 roll call on **HB 631** - Appendix.)

HB 631, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 631**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 97 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bruce moved that **SB 97** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 29 , 2000 roll call on **SB 97** - Appendix.)

SB 97 was passed and the title agreed to.

Representative Bruce moved that the vote by which **SB 97** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 510, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 510**. Agreed.

Representative Wayne moved that **HB 510**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 5**. (See February 29, 2000 roll call on **HB 510** - Appendix.)

HB 510, by way of Committee Substitute, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 510**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 254, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute to **HB 254**. Agreed.

Representative Burch moved that **HB 254**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 90, Nays 0**. (See February 29, 2000 roll call on **HB 254** - Appendix.)

HB 254, by way of Committee Substitute, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 254**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 386, with Committee Substitute, Committee Amendment, and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the Committee Substitute to **HB 386**. Agreed.

Representative Thomas moved the adoption of Committee Amendment No. 1 to the Committee Substitute to **HB 386**. Agreed.

Representative Treesh moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 386**. Agreed.

Representative Thomas moved that **HB 386**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 85, Nays 9**. (See February 29, 2000 roll call on **HB 386** - Appendix.)

HB 386, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 386**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 643, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 643**, as amended, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 29, 2000 roll call on **HB 643** - Appendix.)

HB 643 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 643** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 506, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Vincent moved the adoption of Floor Amendment No. 1 to **HB 506**. Agreed.

Representative Vincent moved that **HB 506**, as amended, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 29, 2000 roll call on **HB 506** - Appendix.)

HB 506, as amended, was passed and the title agreed to.

Representative Vincent moved that the vote by which **HB 506**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 603 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved that **HB 603** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 29 , 2000 roll call on **HB 603** - Appendix.)

HB 603 was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 603** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 549, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the Committee Substitute to **HB 549**. Agreed.

Representative Cave moved that **HB 549**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 84, Nays 10**. (See February 29, 2000 roll call on **HB 549** - Appendix.)

HB 549, by way of Committee Substitute, was passed and the title agreed to.

Representative Cave moved that the vote by which **HB 549**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 608 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palmer moved that **HB 608** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 29 , 2000 roll call on **HB 608** - Appendix.)

HB 608 was passed and the title agreed to.

Representative Palmer moved that the vote by which **HB 608** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 623, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Walton moved the adoption of the Committee Substitute to **HB 623**. Agreed.

Representative Walton moved that **HB 623**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See February 29, 2000 roll call on **HB 623** - Appendix.)

HB 623, by way of Committee Substitute, was passed and the title agreed to.

Representative Walton moved that the vote by which **HB 623**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 662 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved that **HB 662** be passed.

On the roll call the vote was: **Yeas 91, Nays 3**. (See February 29 , 2000 roll call on **HB 662** - Appendix.)

HB 662 was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 662** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 605 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved that **HB 605** be passed.

On the roll call the vote was: **Yeas 87, Nays 7**. (See February 29 , 2000 roll call on **HB 605** - Appendix.)

HB 605 was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 605** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 85 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 85** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See February 29 , 2000 roll call on **HB 85** - Appendix.)

HB 85 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 85** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 665, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of Floor Amendment No. 1 to **HB 665**. Agreed.

Representative C. Belcher moved that **HB 665**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 1**. (See February 29, 2000 roll call on **HB 665** - Appendix.)

HB 665, as amended, was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 665**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 308 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Feeley moved that **HB 308** be passed.

On the roll call the vote was: **Yeas 94, Nays 1**. (See February 29 , 2000 roll call on **HB 308** - Appendix.)

HB 308 was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 308** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 545 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 545** be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See February 29 , 2000 roll call on **HB 545** - Appendix.)

HB 545 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 545** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that **HB 852** be reassigned to Economic Development. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 792, HB 885, HB 819, HJR 122, HR 130, HB 814,** and **SJR 57** be waived. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 1, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 921, by Representative D. D. Butler: AN ACT relating to delinquent property.

HB 922, by Representative D. D. Butler: AN ACT relating to revenue and taxation.

HB 923, by Representative Richards: AN ACT relating to the Department of Law.

HB 924, by Representative Wayne: AN ACT relating to impact fees.

HB 925, by Representative Anderson: AN ACT relating to occupational license taxes.

HB 926, by Representative Anderson: AN ACT relating to voting.

HB 927, by Representative Anderson: AN ACT relating to administrative hearings.

HB 928, by Representative Anderson: AN ACT relating to taxation.

HB 929, by Representative Bratcher: AN ACT relating to law enforcement.

HB 930, by Representative McKee: AN ACT relating to telephone solicitations.

HB 931, by Representative McKee: AN ACT relating to county ordinances.

HB 932, by Representatives DeWeese and Marzian: AN ACT relating to the repeal of health insurance coverage for the treatment of breast cancer with bone marrow or stem cell transplantation.

HB 933, by Representatives Crall and Thomas: AN ACT relating to drugs.

HB 934, by Representatives Weaver and Yonts: AN ACT relating to alcoholic beverage control.

HB 935, by Representatives Cornett, Weaver, and L. Belcher: AN ACT relating to retirement.

HB 936, by Representatives Richards, L. Clark, Barrows, Stumbo, and Callahan: AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 937, by Representatives Anderson and Fischer: AN ACT proposing an amendment of Section 100 of the Kentucky Constitution relating to circuit clerks.

HB 938, by Representatives Horlander, L. Clark, Miller, P. Clark, Riggs, and Jenkins: AN ACT relating to zoning ordinances.

HB 939, by Representative Heleringer: AN ACT relating to campaign finance.

HB 940, by Representatives Thomas and Cherry: AN ACT relating to animal feeding operations and declaring an emergency.

HB 941, by Representative Thomas: AN ACT relating to purchase of agricultural conservation easement program.

HB 942, by Representative Wilkey: AN ACT relating to public utilities.

HB 943, by Representative Stacy: AN ACT relating to civil actions.

HB 944, by Representative J. Arnold: AN ACT relating to driver training schools.

HB 945, by Representative Johns: AN ACT relating to access to information technology.

HB 946, by Representative Palumbo: AN ACT relating to travel.

HB 947, by Representative Palumbo: AN ACT relating to crimes and punishments.

HB 948, by Representative J. Arnold: AN ACT relating to animal feeding operations.

HB 949, by Representative Palumbo: AN ACT relating to campaign finance regulation.

HB 950, by Representative Stacy: AN ACT authorizing the payment of certain claims against the state that have been duly audited and approved according to law, and have not been paid because of the lapsing or insufficiency of former appropriations against which claims were chargeable, and declaring an emergency.

HB 951, by Representative Anderson: AN ACT relating to sales tax.

HB 952, by Representative Anderson: AN ACT relating to administrative hearings.

HB 953, by Representative Anderson: AN ACT relating to hazardous duty retirement.

HB 954, by Representatives Johns, Marzian, L. Clark, Jenkins, Jordan, Burch, J. Adams, Scott, and Colter: AN ACT relating to crimes and punishments.

HB 955, by Representative Anderson: AN ACT relating to incentives for the development of coal-fired electric generation.

HB 956, by Representatives Colter, Moberly, Collins, Jenkins, Scott, Marzian, Stein, Sims, Siler, Miller, L. Belcher, Walton and Thompson: AN ACT relating to teacher certification.

HB 957, by Representatives DeWeese, L. Clark, Marzian, Feeley, and Crimm: AN ACT relating floodplains and declaring an emergency.

HB 958, by Representatives Cornett, J. Turner, Ratliff, Branham, Ausmus, Upchurch, T. Turner, R. Adams, Haydon, Anderson, Fischer, Weaver, Napier, and Colter: AN ACT relating to countywide and area code wide local telephone service.

HB 959, by Representatives Cornett, Ratliff and Anderson: AN ACT relating to solid waste and making an appropriation therefor.

HCR 133, by Representatives Tapp and Graham: A CONCURRENT RESOLUTION urging state agencies to establish e-mail policies allowing any state employee to use state e-mail to request sick leave donations from fellow state employees.

HJR 134, by Representative Sims: A JOINT RESOLUTION creating a task force and directing a study of incentives to stimulate alternative fuel vehicle purchases, conversions, usage, and development of supporting infrastructure.

HJR 135, by Representatives Riner, Stumbo, Richards, Barrows, Callahan, L. Clark, Bruce, J. Adams, A. Arnold, Cherry, Geveden, Thomas, Graham, D. Butler, R. Adams, Stacy, Damron, C. Belcher, Ballard, J. Arnold, Kerr, Riggs, Horlander, Polston, P. Clark, Miller, Worthington, Webb, Branham, Haydon, Lee, Nesler, Ford, Adkins, L. Belcher, Thompson, Yonts, Sims, Scott, Childers, Weaver, Collins, Burch, McKee, Gooch, Alexander, Palmer, Jenkins, Wilkey, Gray, Bather, Buckingham, Bowling, Hoffman, Nunn, Westrom, Marcotte, Reinhardt, Ausmus, Cave, Stewart, Crimm, Tapp, J. Turner, Ratliff, Anderson, DeWeese, Bratcher, Napier, Draud, T. Turner, Vincent, Cornett, Fischer, Baugh, Treesh, Rader, Colter, Siler, Wayne, D. D. Butler, Allen, Walton, Jordan, Upchurch, Hoover, Coleman, Moberly, Crall, Johns, and Heleringer: A JOINT RESOLUTION directing that KRS 158.195 and this resolution be transmitted to all elected officials and public school teachers in the Commonwealth setting forth the legal guidelines established by the General Assembly in this resolution governing elected officials and public school teachers electing to post historic displays which include a depiction of the Ten Commandments, and directing the establishment of a "Read to Lead' program in schools.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Transportation: **HB 819, HJR 122, HR 130**

Local Government: **HB 742, HB 726, HB 795, HB 810, HB 829, SB 113, SB 149, SB 194**

Economic Development: **SB 190**

Natural Resources and Environment: **HB 792**

Motions, Petitions, and Communications (Continued)

Representative Burch moved that Floor Amendment No. 1 to **HB 625** be withdrawn. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 254**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "nay" on **SB 39**. Agreed.

Representative Ratliff moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 549**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 541**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jordan moved that she be recorded as voting "nay" on **SB 105**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on the Committee Substitute to **HB 347**. Agreed.

Representative Walton moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Walton moved that he be recorded as voting "yea" on **HB 4, HB 360, HB 380, HB 453, HB 465, HB 525, HB 596, HB 645,** and **HB 664**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 603, HB 549, HB 608, HB 623, HB 605, HB 662, HB 665, HB 308, HB 545,** and **HB 85**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Sims moved that she be recorded as voting "yea" on **HB 4, HB 360, HB 380, HB 453, HB 465, HB 525, HB 596, HB 645, HB 664, HB 158, HB 189, HB 190, HB 371,** and **HB 381**. Agreed.

Representative Simpson moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Simpson moved that he be recorded as voting "yea" on **HB 541, HB 536, HB 631, HB 549,** and **SB 97**. Agreed.

Representative J. Arnold moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Arnold moved that he be recorded as voting "yea" on **HB 665**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to House Committee Substitute to **HB 584**, by Representative Gray:

On Page 3, Line 9 after the word "*centers.*" by adding the following words, "***In no event shall any revenues collected as provided for under KRS 91A.350(3) be utilized for the construction, renovation, maintenance, or additions to any convention center that is located outside the boundaries of the Commonwealth of Kentucky.***"

Floor Amendment No. 1 to **HB 415**, by Representative Vincent:

On page 9, by deleting line 27 in its entirety; and
On page 10, by deleting lines 1 to 8 in their entirety.

Floor Amendment No. 1 to **HB 268**, by Representative Damron:

On page 2, line 23, by deleting "*or*"; and
On page 2, line 24, by deleting the period and inserting in lieu thereof "***; and***"; and
On page 2, after line 24 by inserting:
"***(c) An employer-organized association as defined in KRS 304.17A-005.***".

Floor Amendment No. 2 to House Committee Substitute to **HB 584**, by Representative Callahan:

On page 1, line 4 after the word "class" by adding "***, except those counties that are included in a multicounty tourist and convention commission under KRS 91A.350,***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended.

HB 258: Representative D. D. Butler

HB 506: Representative Damron

HB 631: Representative Lee

HB 814: Representative Crall, J. Turner

HB 825: Representatives D. D. Butler, Crimm, Stewart

HB 826: Representatives Adkins, Heleringer

HB 876: Representatives Bather, Baugh, Crall, Geveden, Riggs, Thomas, Vincent, Wilkey, Worthington

HB 878: Representatives Alexander, Anderson, Ausmus, Burch, L. Clark, Colter, Napier, Nesler, Siler, Wayne

HB 932: Representative Crimm

HB 935: Representatives Anderson, Ratliff

HJR 112: Representative Riggs

The following members filed a requests to have their names withdrawn as co-sponsor of the following Bills:

HB 801: Representative Siler

HB 815: Representative Yonts

Announcements

The following meetings were announced:

Majority Caucus, upon adjournment, Room 129

Labor and Industry, 8:00 a.m., March 1, 1000, Room 129

Subcommittee on General Government, 10:00 a.m., March 1, 2000

Education, 8:00 a.m., March 1, 2000

Elections, Constitutional Amendments, and Intergovernmental Affairs, 10:00 a.m., March 1, 2000

State Government, Special Meeting, 12:00 p.m., Room 131, March 3, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 1, 2000.

The motion that the House adjourn until 2:00 p.m., March 1, 2000 was adopted by voice vote.

WEDNESDAY, MARCH 1, 2000

THIRTY-EIGHTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Charles Ellestad, Church of the Ascension, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of February 29, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Bills and Resolutions

HB 960, by Representatives Colter and Cornett: AN ACT relating to nonpublic schools.

HB 961, by Representative Fischer: AN ACT relating to salaries of county officers.

HB 962, by Representative Fischer: AN ACT relating to public safety.

HB 963, by Representative Fischer: AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

HB 964, by Representative Baugh: AN ACT relating to property tax.

HB 965, by Representative Anderson: AN ACT proposing an amendment to Section 226 of the Kentucky Constitution relating to lotteries.

HB 966, by Representative Anderson: AN ACT relating to coal mining.

HB 967, by Representative Anderson: AN ACT relating to revenue and taxation.

HB 968, by Representative Graham: AN ACT relating to title fees on motorboats.

HB 969, by Representative Palumbo: AN ACT relating to hospitalization of individuals with mental illness.

HB 970, by Representative Palumbo: AN ACT relating to school-based decision making.

HB 971, by Representative Anderson: AN ACT relating to the financing of adult education and literacy.

HB 972, by Representative Gooch: AN ACT relating to insurance.

HB 973, by Representative Kerr: AN ACT relating to the Transportation Cabinet.

HB 974, by Representative Kerr: AN ACT relating to loads spilling on highways.

HB 975, by Representatives Upchurch, Ford, and Scott: AN ACT relating to community colleges.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agriculture and Small Business: **HB 940, HB 941, HB 948**

Appropriations and Revenue: **HB 918, HB 921, HB 922, HB 923, HB 928, HB 951, HB 959**

Education: **HB 929, HB 956**

Elections and Constitutional Amendments and Intergovernmental Affairs: **HB 926, HB 936, HB 937, HB 939, HB 949**

Health and Welfare: **HB 932**

Judiciary: **HB 919, HB 920, HB 933, HB 943, HB 947, HB 954, SB 109**

Labor and Industry: **HB 930**

Licensing and Occupations: **HB 934, HB 944**

Local Government: **HB 916, HB 924, HB 925, HB 931, HB 938**

Natural Resources and Environment: **HB 957**

State Government: **HB 917, HB 927, HB 935, HB 945, HB 946, HB 950, HB 952, HB 953, HJR 132, HCR 133, HJR 135**

Tourism Development and Energy: **HB 942, HB 955, HB 958**

Transportation: **HB 914, HB 915, HJR 134**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

State Government: **HB 900, SB 206, SB 207, HB 826, HB 728, HB 842, HB 856, HB 901, HB 910, SB 68, SB 94, SB 166, SB 202, HB 720, HB 389, SB 114**

The Clerk announced that the following Bills have been withdrawn from Committee consideration:

State Government: **HB 552, HB 748**

Report of Committees

The Committee on Labor and Industry reported **HB 349,** with Committee Substitute attached thereto, **HB 408,** with Committee Substitute attached thereto, **HB 620,** and **HB 751** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 349, AN ACT relating to electrical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 2001, any person who engages in electrical work or electrical contracting or works as a master electrician or electrical contractor shall:

(a) Hold a valid and effective electrical contractor's license issued by the department under the provisions of KRS 227.450 to 227.500;

(b) Hold a valid and effective master electrician's license issued by the department under the provisions of KRS 227.450 to 227.500;

(c) Hold a valid and effective journeyman electrician's license issued by the department under the provisions of KRS 227.450 to 227.500; or

(d) Be a registered apprentice electrician who works under the direct supervision of a licensed contractor, master electrician, or journeyman electrician.

(2) Nothing in KRS 227.450 to 227.500 shall be construed to require that a full-time maintenance worker or maintenance engineer performing routine electrical work in conjunction with his or her employment be licensed.

(3) Nothing in subsection (1) of this section shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(4) Nothing in KRS 227.450 to 227.500 shall preclude the use of unlicensed nonresident journeyman electricians in temporary, emergency, or industrial shutdown situations. These unlicensed, nonresident, journeyman electricians shall apply for a journeyman electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident journeyman electrician within ninety (90) days of securing employment.

(5) Nothing in KRS 227.450 to 227.500 shall apply to an owner, or a farmer installing or repairing electrical wiring on his or her farm premises or personal residence.

(6) It is the expressed intent of the Kentucky General Assembly that existing local electrical licensing programs established by local ordinances prior to the effective date of this Act shall be able to continue as authorized local licensing programs, if the programs conform to the requirements established in KRS 227.450 to 227.500 and the administrative regulations promulgated by the department in accordance with those sections.

Section 2. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in***, offers to engage in, advertises, or otherwise represents that he or she is qualified to engage in the designing, planning, installing, and contracting of, or assumes responsible charge for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power and data communication low voltage wiring as specified under the National Electrical Code, and who employs others to engage in these practices. At least one (1) of these employees shall be a master electrician in the contractor's full-time employ if the contractor has not passed an electrical contractor's examination or is not licensed under Section 6 of this Act***~~[the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power]~~;

(2) "Electrician" means any person who is employed by an electrical contractor and ***who engages in the work of a master electrician or a journeyman electrician, or*** is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(3) "Electrical" pertains to the installation***, alteration, or repair*** of wires and conduits ***used*** for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith***, within the property lines of any given property, beginning at the secondary side of the transformer. This definition shall include any work conducted by an electrical utility company not exempt by KRS 227.460 or the National Electrical Code, except line work consisting of poles and towers, including wires or cables and other apparatus supported therefrom***;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky;~~[and]~~

(5) "Department" means the Department of Housing, Buildings and Construction***;***

(6) "Apprentice electrician" means a person who is in the process of learning the trade of electrical work, who assists and is under the personal supervision of a licensed master electrician or journeyman electrician;

(7) "Authorized local licensing program" means any city, county, or urban-county government electrician and electrical contractor licensing program complying with Section 4 of this Act established by local ordinance for the purpose of qualifying electrical workers prior to July 15, 2000, or any other electrician or electrical contractor licensing program meeting the requirements of KRS 227.450 to 227.500;

(8) "Journeyman electrician" means a person licensed to engage in electrical work under the supervision of a master electrician or electrical contractor and to assume supervision of and responsibility for apprentice electricians engaged in electrical work;

(9) "Master electrician" means a person licensed to engage in electrical work and to assume supervision and responsibility for journeyman and apprentice electricians engaged in electrical work;

(10) "Maintenance person or maintenance engineer" means a person who is a regular, bona fide, full-time employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction of the property where the routine maintenance of electrical systems is being performed;

(11) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to insure the proper operation, and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems; and

(12) "Registered" applies to a person who is part of a program established by the Kentucky Labor Cabinet or Bureau of Apprenticeship Training that establishes and maintains a verifiable roster for recording the work relationships between apprentice electricians and licensed electricians.

Section 3. KRS 227.4901 is amended to read as follows:

(1) The Department of Housing, Buildings and Construction, with advice from the Electrical Advisory Committee, shall select and approve ***examinations***~~[an examination]~~ to be used in determining the competency of ***electricians and*** electrical contractors for ***state***~~[local]~~ licensure***, and until July 1, 2001, for local licensure***. The examination selected and approved shall be a ***state or*** nationally recognized examination***, that***~~[which]~~ has been determined through proper validation techniques to measure successfully an individual's competency to perform ***the applicable*** electrical~~[contracting]~~ work. ***Prior to July 1, 2001, an applicant for a journeyman license may obtain an equivalent industry certificate in lieu of the examination.***

(2) ***Except as provided in subsection (1) of this section, a person who desires to be a journeyman electrician, a master electrician, or an electrical contractor shall take and pass an examination that corresponds with the level of licensure for which the person applies. In addition, an electrical contractor shall take and pass a business and law examination***

approved by the department. Any person[~~An electrical contractor~~] who achieves a passing score on the ***appropriate,*** approved[~~ electrical contractor~~] examination administered ***through***[~~by~~] the department, upon ***application and the*** payment of the requisite fees, shall be issued ***the corresponding***[~~an electrical contractor~~] examination certificate.[~~ This certificate shall be accepted by any city or county requiring an electrical contractor license, as evidence of satisfactory completion of the electrical contractor examination requirement contained in KRS 227.490.~~]

(3) ***A journeyman electrician, master electrician, or*** an electrical contractor who is licensed by a city,[~~ or~~] county***, or other state*** and has successfully passed ***the respective***[~~an electrical contractor~~] examination at ***that***[~~the local~~] level, ***or prior to July 1, 2001, a journeyman electrician who has been issued an equivalent industry certificate in lieu of taking the examination,*** may apply to the department for an ***appropriate electrician's examination certificate or*** electrical contractor examination certificate. If the examination taken was the department-approved examination, the department shall issue a certificate upon verification of a passing score and the payment of the certificate fee. If the examination taken was not the department-approved examination, the department shall evaluate the examination taken and shall issue a certificate only if ***the department determines***[~~a determination is made~~] that the examination taken is substantially equivalent to the department-approved examination.

(4) The department shall offer ***or may contract with recognized testing agencies to administer*** the ***examinations at frequent and regular intervals throughout***[~~electrical contractor examination on a regularly scheduled basis in Frankfort. The department shall also offer the examination in other parts of~~] the state[~~ a minimum of two (2) times per year~~]. ***The costs of the examination shall not exceed the fee charged by the testing service.***

(5) The department shall ***maintain records of***[~~collect and compile reports on~~] disciplinary actions against licensed ***journeymen electricians, master electricians, and*** electrical contractors submitted by cities and counties. The department shall ***notify local building officials and electrical inspectors of any suspension or revocation of a state license***[~~publish a quarterly report of these actions and transmit a copy to each city or county that licenses electrical contractors. The department shall also make this information available to cities or counties upon request~~].

(6) The department ***shall***[~~may~~] promulgate reasonable administrative regulations necessary for the administration ***and enforcement*** of ***KRS 227.450 to 227.500***[~~this section~~], including the establishment of reasonable fees.

(7) Effective July 1, 2001, upon proof that the applicant meets the requirements of Section 9 of this Act and has passed the examination, where applicable, the department or an authorized local licensing program approved by the department shall issue a state photo ID license. All registered apprentices shall be issued a registration card by the Kentucky Labor Cabinet. The fees for state licenses issued by the authorized local licensing programs under KRS 227.450 to 227.500 shall be retained by the local government and shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and other laws governing the enforcement of the National Electrical Code.

Section 4. KRS 227.490 is amended to read as follows:

(1) ***Effective July 1, 2001, in order to engage in electrical work or electrical contracting, a person shall hold a state license issued by either the department or by an authorized local licensing program approved by the department. The department shall promulgate administrative regulations establishing licensing requirements for electrical contractors and journeyman and master electricians, which shall include, but not be limited to:***

(a) Satisfactory completion of a department-approved examination for electricians or electrical contractors;

(b) Proof of four (4) years of prior electrical trade experience before taking the examination to obtain a journeyman electrician's license;

(c) Proof of two (2) years of journeymen experience to obtain a master electrician's license;

(d) The subject areas to be tested and the process by which a license may be issued, renewed, or reinstated;

(e) Procedures for allowing licenses to be placed in an inactive state for a reasonable period of time;

(f) Provisions for exempting the installation of certain specialized equipment at on-site disconnects; and

(g) The method and process by which local governments may administer and enforce KRS 227.450 to 227.500 if the locality seeks to administer the state program within its boundaries as an agent of the department.

(2) Beginning on July 1, 2002, as a condition for license renewal for July 1, 2003, and each year thereafter, each licensee shall complete a minimum of six (6) hours of continuing education by an approved provider approved by the Commonwealth of Kentucky Department of Housing, Buildings and Construction; or some other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the continuing education classes and the procedures by which a provider shall be approved.

(3) The department shall promulgate administrative regulations setting out initial licensing fees, which shall vary depending on the type of license held. The initial licensing fee shall not exceed fifty dollars ($50) for journeyman electricians and one hundred fifty dollars ($150) for master electricians or electrical contractors. All fees and fines paid to the department shall be deposited in a trust and agency account in the State Treasury and shall not revert to the general fund. The funds shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and related electrical code enforcement.

(4) Effective July 1, 2001, anyone holding a currently valid license as a journeyman electrician, a master electrician, or an electrical contractor issued by a city or county in the Commonwealth, or holding an examination certificate issued by the state may apply to be licensed at the state level by submitting an application, paying the required initial fee, and having his or her existing license or certificate converted to a state license or by obtaining a new state license from the department or from an authorized local licensing program. The applicants shall be licensed after submitting the appropriate examination certificate or verification of licensure, and meeting the requirements of Section 9 of this Act, if applicable. The state license shall entitle the holder to do business anywhere in the state without further licensing requirements, except for those requirements relating to local occupational taxes.

(5) From the effective date of this Act until July 1, 2001, a city or county may require all electrical contractors and electricians, except those possessing a ***currently***[~~current~~] valid license from that city or county, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(6) The standards established by the city or county shall include passing an appropriate, department-approved examination.

(7)[~~(2)~~]A city or county that requires the examination of electrical contractors ***or electricians*** for licensure[~~,~~] shall administer the ***appropriate level of***[~~electrical contractor~~] examination selected and approved by the Department of Housing, Buildings and Construction as required in KRS 227.4901.

(8)[~~(3)~~]A city or county that requires the examination of ***electricians or*** electrical contractors for licensure[~~,~~] shall accept ***the appropriate journeyman electrician, master electrician, or***[~~an~~] electrical contractor examination certificate as evidence that an applicant for ***a journeyman electrician's, master electrician's, or***[~~an~~] electrical ***contractor's***[~~contractor~~] license has successfully met the examination requirement of subsection ***(5)***[~~(1)~~] of this section.

(9)[~~(4)~~](a) The examining board shall be composed of seven (7) members appointed by the city or the county and in[~~ such~~] instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of each local government ***that***[~~which~~] is ***a*** party to the cooperative agreement. The cooperative agreement shall conform to the provisions of KRS Chapter 65. The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors, and one (1) utility company official. No appointee shall serve more than two (2) consecutive terms. A term shall be three (3) years.

(b) If the provisions of KRS 227.470(2) apply, appointment of the members of the examining board shall be by the fiscal courts of the participating counties, provided that each county will name a fire department official from ***its***[~~their~~] respective counties and an electrical contractor from ***its***[~~their~~] respective counties. ***If***[~~In the event that~~] there are more than two (2) counties who have authorized a cooperative agreement pursuant to KRS 227.470(2), the examining board shall be increased from seven (7) to nine (9) members if three (3) counties participate, to eleven (11) members if four (4) counties participate, and will continue to increase by two (2) members for each additional county that participates. The additional two (2) members for each county shall be a fire department official and an electrical contractor from each respective county.

(10)[~~(5)~~] The members of the examining board shall serve without salary.

(11)[~~(6)~~] In order to administer KRS 227.450 to 227.500, the board may issue, renew, suspend, and revoke licenses; conduct and make regulations for conducting examinations of applicants; ***and*** govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may ***promulgate***[~~adopt~~] any other reasonable ***administrative*** regulations to administer KRS 227.450 to 227.500.

(12)[~~(7)~~] Electrical contractors***, master electricians,*** and ***journeyman*** electricians ***shall***[~~may~~] be required to pay a reasonable fee before issuance or renewal of a license to them.

(13)[~~(8)~~] A city or county shall report to the department within thirty (30) days of the action taken, any suspension, revocation, or any other disciplinary action taken against ***any licensed electrician or***[~~a~~] licensed electrical contractor. The city or county shall also provide any other information on disciplinary actions requested by the department.

(14) Subsections (5) to (13) of this section shall expire, effective July 1, 2001, at which time all licensing shall be performed by the department, except that authorized local electrical licensing programs may act as agents for the state for the purpose of administering the licensing program established in KRS 227.450 to 227.500 and may maintain the fees in accordance with administrative regulations promulgated by the department. No city or county shall require additional electrical licensing except as provided under KRS 227.450 to 227.500.

SECTION 5. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) Every master and journeyman electrician's and electrical contractor's license issued by the department or the authorized local licensing program shall expire on June 30 of each year following the date of issuance unless it is earlier suspended, canceled, or revoked; except that any state license issued prior to July 1, 2001, shall not expire until

June 30, 2002.

(2) (a) On or before June 1 of each year, the department or the authorized local licensing program shall send license renewal notices to all licensed master electricians, journeyman electricians, and electrical contractors in the state. A local licensing authority shall send renewal notices to all electricians and contractors it has licensed. The notice shall be sent to the last known address of the electricians and electrical contractors and shall advise them that the annual fee is due not later than July 1. It shall be the responsibility of each licensee to notify the department, in writing, of any change of address.

(b) The department shall promulgate administrative regulations setting out annual renewal fees, which shall vary depending on the type of license held. The annual license renewal fee shall not exceed twenty-five dollars ($25) for journeyman electricians and one hundred dollars ($100) for master electricians and contractors and shall not exceed the department's administrative cost of administering and enforcing KRS 227.450 to 227.500.

(3) Any master electrician, journeyman electrician, or electrical contractor who fails to renew a license on or before July 1 of each year may have the license reinstated upon payment of the prescribed license renewal fee set out in subsection (2)(b) of this section and the required initial license fee as set out in subsection (3) of Section 4 of this Act, if the licensee does so by July 31 of that year.

(4) If a license is not reinstated by September 30 of the year in which it expired, the former license holder shall reapply for licensure and meet all requirements set out in subsections (1) and (2) of Section 4 of this Act, including taking or retaking the required examination if it has been more than two (2) years since the license has expired.

SECTION 6. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) For applications filed prior to December 31, 2001, by persons who do not qualify for licensure as set forth in subsection (4) of Section 4 of this Act by having previously obtained a valid local license or state examination certificate, the department shall approve contractors and electricians for licensure based on experience, in lieu of the examination certificate, upon proper documentation that the applicant has been actively engaged and lawfully established in the electrical trade, as follows:

(a) For an applicant to be licensed as an electrical contractor, verifiable current experience as an electrical contractor prior to July 1, 2000, until the date of application;

(b) For an applicant to be licensed as a master electrician, a minimum of four (4) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor and two (2) years of verifiable experience as a master electrician supervising electricians for a lawfully established electrical contractor; and

(c) For an applicant to be licensed as a journeyman electrician, a minimum of four (4) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor.

(2) Beginning July 1, 2001, there shall be no licensing of electricians or electrical contractors other than the issuance of state licenses, except as allowed under administrative regulations promulgated by the department for authorized local electrical licensing programs implementing the state program.

SECTION 7. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2001, the department, after affording the affected party an opportunity to be heard, may revoke, suspend, place on probation, or restrict the license or certificate of any licensee or certificate holder; refuse to issue or fail to renew the license or certificate; reprimand a licensee or certificate holder; or censure the license or certificate of any journeyman electrician, master electrician, or electrical contractor; and may impose fines between twenty-five dollars ($25) and two hundred fifty dollars ($250) per day, if the licensee has done any of the following:

(1) Knowingly and willfully violated the provisions of the electrical code, this chapter, or administrative regulations promulgated under this chapter;

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Performed services as a licensed electrical contractor, master electrician, or journeyman electrician incompetently or negligently in violation of applicable codes and standards of practice;

(4) Permitted a person not licensed by this chapter to use his or her license to obtain or perform electrical work;

(5) Acted in an unprofessional or dishonorable manner that is likely to deceive or defraud the public;

(6) Willfully or deliberately disregarded any disciplinary actions taken by the board, or of a city, county, or urban-county government; or

(7) Been convicted of a felony or of any crime an element of which is dishonesty or fraud, under the laws of any state or of the United States.

SECTION 8. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2001, any person for whom licensure is required, who is not licensed as required by KRS 227.450 to 227.500

and who engages in electrical work or electrical contracting, shall be guilty of a Class A misdemeanor. Each day shall be a separate offense.

Section 9. KRS 227.480 is amended to read as follows:

(1) A city or county shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. ***After July 1, 2001, no permit shall be issued except in the name of the licensed electrical contractor.***

(2) ***Until July 1, 2001,*** a city,[~~ or~~] county, or the state shall not issue a permit unless the applicant submits, through an affidavit or other means prescribed by the city, county, or state, that he ***or she*** has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also ***until July 1, 2001,*** require the applicant to submit proof in the manner prescribed above that he ***or she*** has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of ***a master electrician's or***[~~ an~~] electrical ***contractor's***[~~contractor~~] license. ***After July 1, 2001, proof of workers' compensation unemployment insurance and general liability insurance in the minimum amount of two hundred fifty thousand dollars ($250,000) shall be one (1) of the requirements for doing business as an electrical contractor and obtaining the required state license.*** However, the provisions of this subsection shall not apply to a homeowner ***who is also a resident of the home*** or ***to a*** farmer who does construction, alteration, or repairs of any electrical wiring on ***his or her personal residence or farm***[~~their own~~] premises.

(3) A city or county ***shall, by employment or contract,***[~~may~~] appoint and fix the compensation of city or county electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements***, not in conflict with state law,*** for the conduct of electrical inspections within its boundaries. All electrical inspectors ***shall***[~~must~~] be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National ***Electrical***[~~Electric~~] Code. These standards shall be used by the electrical inspector in making his inspections.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Every person licensed by KRS 227.450 to 227.500 shall carry upon his or her person or have readily available at the location he or she is working the photo ID license card issued and the licensee shall present the card for viewing upon demand by any certified electrical inspector.

(2) Any vehicle used for transportation of materials or equipment for performance of any activity for which a license is required by KRS 227.450 to 227.500 shall be conspicuously and clearly marked with the license number and the company name or the individual's name, if no company exists.

(3) If the holder of a master electrician's license, who is the representative by which the licensed electrical contractor company qualifies, ceases to be part of the business utilizing that license, the master electrician shall immediately report the disassociation to the department or to the authorized local licensing program approved by the department. The master electrician shall be responsible for all work done under the master's license to the point at which the department or authorized local licensing program is notified.

(4) If the holder of any electrical license ceases to be part of the business utilizing that license, all rights of the firm or corporation or its employees to perform work under that license shall cease, and the firm or corporation shall be required to employ a licensed person prior to continuance of the business activity or within thirty (30) days, whichever comes first.

(5) No licensed master electrician shall represent more than one (1) licensed electrical contractor.

The Committee Substitute to **HB 349** is as follows:

HB 349, AN ACT relating to electrical services.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) Effective July 1, 2001, any person who engages in electrical work or electrical contracting or works as a master electrician or electrical contractor shall:

- ***(a) Hold a valid and effective electrical contractor's license issued by the department under the provisions of KRS 227.450 to 227.500;***
- ***(b) Hold a valid and effective master electrician's license issued by the department under the provisions of KRS 227.450 to 227.500;***
- ***(c) Hold a valid and effective journeyman electrician's license issued by the department under the provisions of***

KRS 227.450 to 227.500; or

(d) Be an apprentice electrician who works under the direct supervision of a licensed contractor, master electrician, or journeyman electrician.

(2) Nothing in KRS 227.450 to 227.500 shall be construed to require a license of a full-time maintenance worker or maintenance engineer performing routine electrical work in conjunction with his or her employment, or a person performing electrical work at a surface or underground coal mine or at a coal preparation plant.

(3) Nothing in subsection (1) of this section shall be construed to require persons making installations exempt by KRS 227.460 to be licensed or to work for a licensed person.

(4) Nothing in KRS 227.450 to 227.500 shall preclude the use of unlicensed nonresident journeyman electricians in temporary, emergency, or industrial shutdown situations. These unlicensed, nonresident, journeyman electricians shall apply for a journeyman electrician's license or a master electrician's license after they are employed and engaged in electrical work in the Commonwealth of Kentucky for a period of thirty (30) days. The license shall be obtained by the temporary, unlicensed, nonresident journeyman electrician within ninety (90) days of securing employment.

(5) Nothing in KRS 227.450 to 227.500 shall apply to an owner, or a farmer installing or repairing electrical wiring on his or her farm premises or personal residence.

(6) It is the expressed intent of the Kentucky General Assembly that existing local electrical licensing programs established by local ordinances prior to the effective date of this Act shall be able to continue as authorized local licensing programs, if the programs conform to the requirements established in KRS 227.450 to 227.500 and the administrative regulations promulgated by the department in accordance with those sections.

(7) Nothing in KRS 227.450 to 227.500 shall apply to installations by a retailer or its agent of a consumer product purchased at retail.

Section 2. KRS 227.450 is amended to read as follows:

As used in KRS 227.450 to 227.500 unless the context otherwise requires:

(1) "Electrical contractor" means any individual, partnership or corporation that engages in***, offers to engage in, advertises, or otherwise represents that he or she is qualified to engage in the designing, planning, installing, and contracting of, or assumes responsible charge for the installation, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power as specified under the National Electrical Code, and who employs others to engage in these practices. At least one (1) of these employees shall be a master electrician in the contractor's full-time employ if the contractor has not passed an electrical contractor's examination or is not licensed under Section 6 of this Act***~~[the business of or employs others for the construction, alteration or repair of any electrical wiring used for the purpose of furnishing heat, light or power]~~;

(2) "Electrician" means any person who is employed by an electrical contractor and ***who engages in the work of a master electrician or a journeyman electrician, or*** is engaged in the construction, alteration, or repair of any electrical wiring used for the purpose of furnishing heat, light, or power;

(3) "Electrical" pertains to the installation***, alteration, or repair*** of wires and conduits ***associated with low voltage electrical systems of less than six hundred (600) volts used*** for the purpose of transmitting electricity, and the installation of fixtures and equipment in connection therewith***, within the property lines of any given property. This definition shall exclude any low voltage wiring and conduits associated with the metering, protection, or control of high voltage equipment and line work consisting of poles and towers, including wires or cables and other apparatus supported therefrom***;

(4) "Electrical inspector" means any person certified by the commissioner of housing, buildings and construction pursuant to KRS 227.489 who, for compensation, inspects the construction and installation of electrical conductors, fittings, devices and fixtures for light, heat or power service equipment to ascertain the compliance with the National Electrical Code incorporated in the Uniform State Building Code promulgated pursuant to KRS 198B.050 or the standards of safety of the Commonwealth of Kentucky;~~[and]~~

(5) "Department" means the Department of Housing, Buildings and Construction***;***

(6) "Apprentice electrician" means a person who is in the process of learning the trade of electrical work, who assists and is under the personal supervision of a licensed master electrician or journeyman electrician;

(7) "Authorized local licensing program" means any city, county, or urban-county government electrician and electrical contractor licensing program complying with Section 4 of this Act established by local ordinance for the purpose of qualifying electrical workers prior to July 15, 2000, or any other electrician or electrical contractor licensing program meeting the requirements of KRS 227.450 to 227.500;

(8) "Journeyman electrician" means a person licensed to engage in electrical work under the supervision of a master electrician or electrical contractor and to assume supervision of and responsibility for apprentice electricians engaged in electrical work;

(9) "Master electrician" means a person licensed to engage in electrical work and to assume supervision and responsibility for journeyman and apprentice electricians engaged in electrical work;

(10) "Maintenance person or maintenance engineer" means a person who is a regular, bona fide, full-time employee or agent of a property owner, property lessor, property management company, or firm that is not in the electrical business but has jurisdiction of the property where the routine maintenance of electrical systems is being performed; and

(11) "Routine maintenance of electrical systems" means the routine and periodic servicing of electrical systems, including cleaning, inspecting, and making adjustments to insure the proper operation, and the removal or replacement of component parts. "Routine maintenance of electrical systems" does not include the installation of complete electrical systems.

Section 3. KRS 227.4901 is amended to read as follows:

(1) The Department of Housing, Buildings and Construction, with advice from the Electrical Advisory Committee, shall select and approve ***examinations***[~~an examination~~] to be used in determining the competency of ***electricians and*** electrical contractors for ***state***[~~local~~] licensure***, and until July 1, 2001, for local licensure***. The examination selected and approved shall be a ***state or*** nationally recognized examination***, that***[~~which~~] has been determined through proper validation techniques to measure successfully an individual's competency to perform ***the applicable*** electrical[~~contracting~~] work. ***Prior to July 1, 2001, an applicant for a journeyman license may obtain an equivalent industry certificate in lieu of the examination.***

(2) ***Except as provided in subsection (1) of this section, a person who desires to be a journeyman electrician, a master electrician, or an electrical contractor shall take and pass an examination that corresponds with the level of licensure for which the person applies. In addition, an electrical contractor shall take and pass a business and law examination approved by the department. Any person***[~~An electrical contractor~~] who achieves a passing score on the ***appropriate,*** approved[~~electrical contractor~~] examination administered ***through***[~~by~~] the department, upon ***application and the*** payment of the requisite fees, shall be issued ***the corresponding***[~~an electrical contractor~~] examination certificate.[~~This certificate shall be accepted by any city or county requiring an electrical contractor license, as evidence of satisfactory completion of the electrical contractor examination requirement contained in KRS 227.490.~~]

(3) ***A journeyman electrician, master electrician, or*** an electrical contractor who is licensed by a city***,***[~~or~~] county***, or other state*** and has successfully passed ***the respective***[~~an electrical contractor~~] examination at ***that***[~~the local~~] level, ***or prior to July 1, 2001, a journeyman electrician who has been issued an equivalent industry certificate in lieu of taking the examination,*** may apply to the department for an ***appropriate electrician's examination certificate or*** electrical contractor examination certificate. If the examination taken was the department-approved examination, the department shall issue a certificate upon verification of a passing score and the payment of the certificate fee. If the examination taken was not the department-approved examination, the department shall evaluate the examination taken and shall issue a certificate only if ***the department determines***[~~a determination is made~~] that the examination taken is substantially equivalent to the department-approved examination.

(4) The department shall offer ***or may contract with recognized testing agencies to administer*** the ***examinations at frequent and regular intervals throughout***[~~electrical contractor examination on a regularly scheduled basis in Frankfort. The department shall also offer the examination in other parts of~~] the state[~~a minimum of two (2) times per year~~]. ***The costs of the examination shall not exceed the fee charged by the testing service.***

(5) The department shall ***maintain records of***[~~collect and compile reports on~~] disciplinary actions against licensed ***journeymen electricians, master electricians, and*** electrical contractors submitted by cities and counties. The department shall ***notify local building officials and electrical inspectors of any suspension or revocation of a state license***[~~publish a quarterly report of these actions and transmit a copy to each city or county that licenses electrical contractors. The department shall also make this information available to cities or counties upon request~~].

(6) The department ***shall***[~~may~~] promulgate reasonable administrative regulations necessary for the administration ***and enforcement*** of ***KRS 227.450 to 227.500***[~~this section~~], including the establishment of reasonable fees. ***The regulations shall provide for the employment and training of apprentices and shall include provisions for safeguarding their welfare. The regulations shall provide for the recognition of any apprentice who is a part of a program registered with the Bureau of Apprenticeship and Training, United States Department of Labor, or any state apprenticeship agency recognized by the Bureau of Apprenticeship and Training, United States Department of Labor.***

(7) Effective July 1, 2001, upon proof that the applicant meets the requirements of Section 9 of this Act and has passed the examination, where applicable, the department or an authorized local licensing program approved by the department shall issue a state photo ID license. All registered apprentices shall be issued a registration card by the Kentucky Labor Cabinet. All other apprentices shall be issued a registration card by the department. The fees for state licenses issued by the authorized local licensing programs under KRS 227.450 to 227.500 shall be retained by the local government and shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and other laws governing the enforcement of the National Electrical Code.

Section 4. KRS 227.490 is amended to read as follows:

(1) ***Effective July 1, 2001, in order to engage in electrical work or electrical contracting, a person shall hold a state license issued by either the department or by an authorized local licensing program approved by the department. The department shall promulgate administrative regulations establishing licensing requirements for electrical contractors***

and journeyman and master electricians, which shall include, but not be limited to:

(a) Satisfactory completion of a department-approved examination for electricians or electrical contractors;

(b) Proof of four (4) years of prior electrical trade experience or a combination of two (2) years of prior electrical trade experience and two (2) years of classroom training approved by the department before taking the examination to obtain a journeyman electrician's license;

(c) Proof of two (2) years of journeyman experience to obtain a master electrician's license;

(d) The subject areas to be tested and the process by which a license may be issued, renewed, or reinstated;

(e) Procedures for allowing licenses to be placed in an inactive state for a reasonable period of time;

(f) Provisions for exempting the installation of certain specialized equipment at on-site disconnects; and

(g) The method and process by which local governments may administer and enforce KRS 227.450 to 227.500 if the locality seeks to administer the state program within its boundaries as an agent of the department.

(2) Beginning on July 1, 2002, as a condition for license renewal, each licensee shall have completed a minimum of six (6) hours of continuing education by an approved provider approved by the Commonwealth of Kentucky Department of Housing, Buildings and Construction; or some other provider of instruction approved by the department. The department shall promulgate administrative regulations establishing the content of the continuing education classes and the procedures by which a provider shall be approved.

(3) The department shall promulgate administrative regulations setting out initial licensing fees, which shall vary depending on the type of license held. The initial licensing fee shall not exceed fifty dollars ($50) for journeyman electricians and one hundred fifty dollars ($150) for master electricians or electrical contractors. All fees and fines paid to the department shall be deposited in a trust and agency account in the State Treasury and shall not revert to the general fund. The funds shall be used solely for the administration and enforcement of KRS 227.450 to 227.500 and related electrical code enforcement.

(4) Effective July 1, 2001, anyone holding a currently valid license as a journeyman electrician, a master electrician, or an electrical contractor issued by a city or county in the Commonwealth, or holding an examination certificate issued by the state may apply to be licensed at the state level by submitting an application, paying the required initial fee, and having his or her existing license or certificate converted to a state license or by obtaining a new state license from the department or from an authorized local licensing program. The applicants shall be licensed after submitting the appropriate examination certificate or verification of licensure, and meeting the requirements of Section 9 of this Act, if applicable. The state license shall entitle the holder to do business anywhere in the state without further licensing requirements, except for those requirements relating to local occupational taxes.

(5) From the effective date of this Act until July 1, 2001, a city or county may require all electrical contractors and electricians, except those possessing a ***currently***[~~current~~] valid license from that city or county, to be examined by an examining board before being issued a license to engage in their occupation. An electrician desiring to become a contractor may apply for an examination to the examining board. A city or county may require all electrical contractors and electricians to conform to reasonable standards prior to engaging in their occupation within the jurisdiction of the city or county.

(6) The standards established by the city or county shall include passing an appropriate, department-approved examination.

(7)[~~(2)~~]A city or county that requires the examination of electrical contractors ***or electricians*** for licensure[~~,~~] shall administer the ***appropriate level of***[~~electrical contractor~~] examination selected and approved by the Department of Housing, Buildings and Construction as required in KRS 227.4901.

(8)[~~(3)~~]A city or county that requires the examination of ***electricians or*** electrical contractors for licensure[~~,~~] shall accept ***the appropriate journeyman electrician, master electrician, or***[~~an~~] electrical contractor examination certificate as evidence that an applicant for ***a journeyman electrician's, master electrician's, or***[~~an~~] electrical ***contractor's***[~~contractor~~] license has successfully met the examination requirement of subsection ***(5)***[~~(1)~~] of this section.

(9)[~~(4)~~](a) The examining board shall be composed of seven (7) members appointed by the city or the county and in[~~ such~~] instances as where the provisions of KRS 227.450 to 227.500 are accomplished jointly as provided for in KRS 227.470, the appointment shall be by joint resolution of the governing body of each local government ***that***[~~which~~] is ***a*** party to the cooperative agreement. The cooperative agreement shall conform to the provisions of KRS Chapter 65. The board shall consist of two (2) fire department officials, two (2) consulting electrical engineers or architects, two (2) electrical contractors, and one (1) utility company official. No appointee shall serve more than two (2) consecutive terms. A term shall be three (3) years.

(b) If the provisions of KRS 227.470(2) apply, appointment of the members of the examining board shall be by the fiscal courts of the participating counties, provided that each county will name a fire department official from ***its***[~~their~~] respective counties and an electrical contractor from ***its***[~~their~~] respective counties. ***If***[~~In the event that~~] there are more than two (2) counties who have authorized a cooperative agreement pursuant to KRS 227.470(2), the examining board shall be increased from seven (7) to nine (9) members if three (3) counties participate, to eleven (11) members if four (4) counties participate, and will continue to increase by two (2) members for each additional county that participates. The additional two (2) members for each county shall be a fire department official and an electrical contractor from each respective county.

(10)[~~(5)~~] The members of the examining board shall serve without salary.

(11)[~~(6)~~] In order to administer KRS 227.450 to 227.500, the board may issue, renew, suspend, and revoke licenses; conduct and make regulations for conducting examinations of applicants; ***and*** govern the method and time of making application for examination and the time within which applicant shall be examined after application has been filed. It may ***promulgate***[~~adopt~~] any other reasonable ***administrative*** regulations to administer KRS 227.450 to 227.500.

(12)[~~(7)~~] Electrical contractors~~,~~***, master electricians,*** and ***journeyman*** electricians ***shall***[~~may~~] be required to pay a reasonable fee before issuance or renewal of a license to them.

(13)[~~(8)~~] A city or county shall report to the department within thirty (30) days of the action taken, any suspension, revocation, or any other disciplinary action taken against ***any licensed electrician or***[~~a~~] licensed electrical contractor. The city or county shall also provide any other information on disciplinary actions requested by the department.

(14) Subsections (5) to (13) of this section shall expire, effective July 1, 2001, at which time all licensing shall be performed by the department, except that authorized local electrical licensing programs may act as agents for the state for the purpose of administering the licensing program established in KRS 227.450 to 227.500 and may maintain the fees in accordance with administrative regulations promulgated by the department. No city or county shall require additional electrical licensing except as provided under KRS 227.450 to 227.500.

SECTION 5. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) Every master and journeyman electrician's and electrical contractor's license issued by the department or the authorized local licensing program shall expire twelve (12) months following the date of issuance unless it is earlier suspended, canceled, or revoked.

(2) The department shall promulgate administrative regulations setting out annual renewal fees, which shall vary depending on the type of license held. The annual license renewal fee shall not exceed twenty-five dollars ($25) for journeyman electricians and one hundred dollars ($100) for master electricians and contractors and shall not exceed the department's administrative cost of administering and enforcing KRS 227.450 to 227.500.

(3) Any master electrician, journeyman electrician, or electrical contractor who fails to renew a license on or before its expiration date may have the license reinstated upon payment of the prescribed license renewal fee set out in subsection (2) of this section and the required initial license fee as set out in subsection (3) of Section 4 of this Act, if the licensee does so by within thirty (30) days of the expiration date.

(4) If a license is not reinstated within ninety (90) days from its expiration date, the former license holder shall reapply for licensure and meet all requirements set out in subsections (1) and (2) of Section 4 of this Act, including taking or retaking the required examination if it has been more than two (2) years since the license has expired.

SECTION 6. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

(1) For applications filed prior to December 31, 2001, by persons who do not qualify for licensure as set forth in subsection (4) of Section 4 of this Act by having previously obtained a valid local license or state examination certificate, the department shall approve contractors and electricians for licensure based on experience, in lieu of the examination certificate, upon proper documentation that the applicant has been actively engaged and lawfully established in the electrical trade, as follows:

(a) For an applicant to be licensed as an electrical contractor, verifiable current experience as an electrical contractor prior to July 1, 2000, until the date of application;

(b) For an applicant to be licensed as a master electrician, a minimum of four (4) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor and two (2) years of verifiable experience as a master electrician supervising electricians for a lawfully established electrical contractor; and

(c) For an applicant to be licensed as a journeyman electrician, a minimum of four (4) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor or a combination of two (2) years of verifiable experience as an electrician under the supervision of a licensed or otherwise lawfully established electrical contractor and two (2) years of verifiable classroom training approved by the department.

(2) Beginning July 1, 2001, there shall be no licensing of electricians or electrical contractors other than the issuance of state licenses, except as allowed under administrative regulations promulgated by the department for authorized local electrical licensing programs implementing the state program.

SECTION 7. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2001, the department, after affording the affected party an opportunity to be heard, may revoke, suspend,

place on probation, or restrict the license or certificate of any licensee or certificate holder; refuse to issue or fail to renew the license or certificate; reprimand a licensee or certificate holder; or censure the license or certificate of any journeyman electrician, master electrician, or electrical contractor; and may impose fines between twenty-five dollars ($25) and two hundred fifty dollars ($250) per day, if the licensee has done any of the following:

(1) Knowingly and willfully violated the provisions of the electrical code, this chapter, or administrative regulations promulgated under this chapter;

(2) Practiced fraud or deception in applying for or obtaining a license;

(3) Performed services as a licensed electrical contractor, master electrician, or journeyman electrician incompetently or negligently in violation of applicable codes and standards of practice;

(4) Permitted a person not licensed by this chapter to use his or her license to obtain or perform electrical work;

(5) Acted in an unprofessional or dishonorable manner that is likely to deceive or defraud the public; or

(6) Willfully or deliberately disregarded any disciplinary actions taken by the board, or of a city, county, or urban-county government.

SECTION 8. A NEW SECTION OF KRS 227.450 TO 227.500 IS CREATED TO READ AS FOLLOWS:

Effective July 1, 2001, any person for whom licensure is required, who is not licensed as required by KRS 227.450 to 227.500 and who engages in electrical work or electrical contracting, shall be guilty of a Class A misdemeanor. Each day shall be a separate offense.

Section 9. KRS 227.480 is amended to read as follows:

(1) A city or county shall, according to the Uniform State Building Code as it pertains to the plan review and inspection responsibilities of local governments, require any person to obtain permits before commencing construction, alteration or repairs of any electrical wiring, and require such inspection as it deems necessary for the safety of life and property. ***After July 1, 2001, no permit shall be issued except in the name of the licensed electrical contractor.***

(2) ***Until July 1, 2001,*** a city,[~~ or~~] county, or the state shall not issue a permit unless the applicant submits, through an affidavit or other means prescribed by the city, county, or state, that he ***or she*** has complied with workers' compensation and unemployment insurance laws and regulations. The city or county shall also ***until July 1, 2001,*** require the applicant to submit proof in the manner prescribed above that he ***or she*** has obtained a general liability insurance policy of not less than two hundred fifty thousand dollars ($250,000) which is in effect. Failure to comply with this requirement shall be grounds for suspension or revocation of ***a master electrician's or***[~~ an~~] electrical ***contractor's***[~~contractor~~] license. ***After July 1, 2001, proof of workers' compensation unemployment insurance and general liability insurance in the minimum amount of two hundred fifty thousand dollars ($250,000) shall be one (1) of the requirements for doing business as an electrical contractor and obtaining the required state license.*** However, the provisions of this subsection shall not apply to a homeowner ***who is also a resident of the home*** or ***to a*** farmer who does construction, alteration, or repairs of any electrical wiring on ***his or her personal residence or farm***[~~their own~~] premises.

(3) A city or county ***shall, by employment or contract,***[~~may~~] appoint and fix the compensation of city or county electrical inspectors, and may by ordinance fix reasonable fees and establish other requirements***, not in conflict with state law,*** for the conduct of electrical inspections within its boundaries. All electrical inspectors ***shall***[~~must~~] be certified under KRS 227.489.

(4) Reasonable standards for the construction, alteration and repair of any electrical wiring shall be those adopted in the Uniform State Building Code, as promulgated by the Board of Housing, Buildings and Construction, and shall have as a minimum standard the requirements of the National ***Electrical***[~~Electric~~] Code. These standards shall be used by the electrical inspector in making his inspections.

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Every person licensed by KRS 227.450 to 227.500 shall carry upon his or her person or have readily available at the location he or she is working the photo ID license card issued and the licensee shall present the card for viewing upon demand by any certified electrical inspector or any user of the licensee's services.

(2) If the holder of a master electrician's license, who is the representative by which the licensed electrical contractor company qualifies, ceases to be part of the business utilizing that license, the master electrician shall immediately report the disassociation to the department or to the authorized local licensing program approved by the department. The master electrician shall be responsible for all work done under the master's license to the point at which the department or authorized local licensing program is notified.

(3) If the holder of any electrical license ceases to be part of the business utilizing that license, all rights of the firm or corporation or its employees to perform work under that license shall cease, and the firm or corporation shall be required to employ a licensed person prior to continuance of the business activity or within thirty (30) days, whichever comes first.

(4) No licensed master electrician shall represent more than one (1) licensed electrical contractor.

HB 408, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.680 is amended to read as follows:

(1) In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify as confirmed by competent medical evidence and where there is unrebutted prima facie evidence that indicates that the injury was work related, it shall be presumed, in the absence of substantial evidence to the contrary, that the injury was work related, that sufficient notice of the injury has been given, and that the injury or death was not proximately caused by the employee's intoxication or by his willful intention to injure or kill himself or another.

(2) ***In any claim for compensation, there shall exist a rebuttable presumption that the heart and lung disease in a firefighter, as defined in KRS 95.010, including a regular or volunteer firefighter or a member of a fire department, is occupationally related if the firefighter has been employed by the fire department for at least five (5) years prior to the date of the injury, and has had a physical examination within one (1) year prior to the date of the injury.***

The Committee Substitute to **HB 408** is as follows:

HB 408, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.680 is amended to read as follows:

(1) In any claim for compensation, where the employee has been killed, or is physically or mentally unable to testify as confirmed by competent medical evidence and where there is unrebutted prima facie evidence that indicates that the injury was work related, it shall be presumed, in the absence of substantial evidence to the contrary, that the injury was work related, that sufficient notice of the injury has been given, and that the injury or death was not proximately caused by the employee's intoxication or by his willful intention to injure or kill himself or another.

(2) ***In any claim for compensation by a paid or volunteer firefighter, as defined in KRS 95.010, for a heart or lung disease or condition which results from activity as a firefighter for five (5) years or more, there shall be a presumption that the disease or condition is a result of his or her employment.***

HB 620, AN ACT relating to private employment agencies.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The following KRS sections are repealed:

340.010 Definitions.
340.020 Permit to operate employment agency.
340.030 Application for permit -- Fees -- Refusal or cancellation.
340.040 Place of business to be stated in permit -- Records and reports -- Permit and law to be posted.
340.043 Surety bond required -- Action on bond.
340.050 Restrictions on operation -- Sample copy of contract forms to be filed.
340.053 Restriction on fees and deposits -- Prohibited operations -- Advertising restrictions.
340.070 Enforcement of law -- Inspections -- Access to records -- Administrative regulations -- Hearings.
340.170 Kentucky Employment Advisory Council -- Membership -- Meetings -- Powers and duties.
340.990 Penalties.

HB 751, AN ACT relating to the minimum wage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 337.275 is amended to read as follows:

(1) Except as may otherwise be provided by this chapter, every employer shall pay to each of his employees wages at a rate of not less than the federal minimum hourly wage as prescribed by 29 U.S.C. sec. 206(a)(1). The minimum wage rates required under this chapter shall be adjusted in accordance with adjustments made in the federal minimum hourly rate. The adoption required in this subsection includes only the federal minimum hourly rate prescribed in 29 U.S.C. sec. 206(a)(1) and does not include other wage rates, or conditions, exclusions, or exceptions to the federal minimum hourly wage rate. In addition, adoption of the federal minimum hourly wage rate does not extend or modify the scope or coverage of the minimum wage rate required under this chapter.

(2)[~~Notwithstanding the provisions of subsection (1) of this section, for any employee engaged in an occupation in which he~~

~~customarily and regularly receives more than thirty dollars ($30) per month in tips from patrons or others, the employer may pay as a minimum not less than the hourly wage rate required to be paid a tipped employee under the federal minimum hourly wage law as prescribed by 29 U.S.C. sec. 203. The employer shall establish by his records that for each week where credit is taken, when adding tips received to wages paid, not less than the minimum rate prescribed in 29 U.S.C. sec. 203 was received by the employee. ~~]No employer shall use all or part of any tips or gratuities received by ***a tipped employee***[~~employees~~] toward the payment of the statutory minimum hourly wage as required by 29 U.S.C. sec. ***206(a)(1)***[~~203~~]. Nothing, however, shall prevent ***tipped*** employees from entering into an agreement to divide tips or gratuities among themselves.

The Committee on Elections, Constitutional Amendments and Intergovernmental Affairs reported **HB 740, HB 750,** and **HB 777,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 740, AN ACT relating to local elections.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.047 is amended to read as follows:

In a city whose boundaries extend beyond those of a single county, candidates for nomination or election to city office shall be governed by the provisions contained in KRS 83A.045, except that all nomination papers shall be filed with the ***county clerk of the county in which the candidate resides***[~~Secretary of State~~] no later than 4 p.m. local time on the day provided for in KRS 83A.045. ***On the day following the candidate filing deadline, each county clerk shall certify the names of all candidates for city office that filed nomination papers with him or her to the clerk of the other county into which the boundaries of the city extend.***

Section 2. KRS 83A.170 is amended to read as follows:

(1) In any city which has under the provisions of KRS 83A.045 or 83A.050 required nonpartisan city elections, or in any city of the second class operating under the city manager form of government pursuant to KRS 83A.150, no person shall be elected to city office except as provided in this section or as otherwise provided in this chapter relating to nonpartisan elections.

(2) No person shall be elected to city office without being nominated in the manner provided in this section at a nonpartisan primary election to be held at the time prescribed by KRS Chapters 116 to 121, except as otherwise provided in this chapter. Nonpartisan primary elections shall be conducted by the same officers, chosen and acting in the same manner, with the same rights and duties as in regular elections.

(3) Each applicant for nomination shall, not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing notification and declaration forms with the county clerk[~~ or the Secretary of State~~] as provided in KRS 83A.047, file a petition of nomination, which shall be in the form prescribed by the State Board of Elections signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(4) The county clerk[~~ or the Secretary of State~~] shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk[~~ or the Secretary of State~~] shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(5) Immediately upon expiration of the time for filing petitions, the county clerk shall have published in accordance with KRS Chapter 424 the names of the applicants as they will appear before the voters at the primary.

(6) Subsection (5) of this section shall not apply if it appears, immediately upon expiration of the time for filing petitions, that there are not more than two (2) applicants for nomination for each city office to be filled, or, when the nominations are for city legislative body members in cities electing legislative body members at large, and there are no more than twice the number of applicants for nomination for the number of offices to be filled. In that case, the applicants for nomination shall thereby be nominated and no drawing for ballot position nor primary election shall be held for that office.

(7) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(8) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk[~~ or the Secretary of State~~] dies or notifies the clerk[~~ or the Secretary of State~~] in writing, signed and properly notarized, that he will not accept the nomination, the clerk shall not cause his name to be printed on the ballot.

(9) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

  (a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

  (b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

(10) Names of applicants for each nomination shall be placed before the voters of the city. The voters shall be instructed to vote for one (1) candidate, except that they shall be instructed to vote for the number of legislative body members to be elected in cities nominating legislative body members at large. No party designation or emblem of any kind nor any sign indicating any applicant's political belief or party affiliation shall be used.

(11) Persons qualified to vote at a regular election shall be qualified to vote at a nonpartisan primary election and the law applicable to challenges made at a regular election shall be applicable to challenges made at a nonpartisan primary election.

(12) Votes shall be counted as provided in general election laws, pursuant to KRS Chapters 116 to 121, and the result shall be published as provided in KRS Chapter 424.

(13) The two (2) applicants receiving the highest number of votes for nomination for each city office shall be nominated; or where the nominations are for city legislative body members in cities electing legislative body members at large, there shall be nominated the number of applicants receiving the highest number of votes equal to twice the number of offices to be filled.

(14) At the regular election following a nonpartisan primary election, the names of the successful nominees and candidates who have filed a petition of candidacy as provided in this chapter to fill a vacancy shall be placed before the voters.

(15) The nominee or candidate receiving the greater number of votes cast for each city office shall be elected.

(16) KRS Chapters 116 to 121 prescribing duties of county clerks and other public officers in the conduct of elections shall be applicable in all respects to nonpartisan city elections, except no election officer or other person within a polling place shall tell or indicate to a voter, by word of mouth or otherwise, the political affiliation of any candidate for city office.

Section 3. KRS 83A.175 is amended to read as follows:

(1) The election to fill the regular term of a nonpartisan city office shall be conducted in the manner prescribed in KRS 83A.165 when, in a regular election for nonpartisan city office no candidates nominated to an office as provided in KRS 83A.170 are available due to death, incapacity, or withdrawal, or when city legislative body members are to be elected at large and there are fewer nominees than there are offices to be filled, or when a city of the fourth to sixth class has not conducted a primary election pursuant to KRS 83A.045.

(2) Each candidate shall, not earlier than the first Wednesday after the first Monday in November of the year before the year in which the office will appear on the ballot and not later than the last date prescribed by the election law generally for filing petitions of nomination with the county clerk[~~ or the Secretary of State~~] as provided in KRS 83A.047, file a petition for candidacy. The petition shall be prescribed by the State Board of Elections and shall be signed by at least two (2) registered voters in the city. Each voter may sign individual petitions equal to the number of offices to be filled. If a voter signs petitions for more candidates than he is authorized, he shall be counted as a petitioner for the candidate whose petition is filed first.

(3) The county clerk[~~ or the Secretary of State~~] shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the county clerk[~~ or the Secretary of State~~] shall notify the candidate by certified mail within twenty-four (24) hours of filing.

(4) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(5) If, before the ballots are printed, any candidate whose petition has been filed in the office of the county clerk[~~ or the Secretary of State~~], dies or notifies the clerk[~~ or the Secretary of State~~] in writing, signed and properly notarized, that he will not accept the election, the clerk shall not cause his name to be printed on the ballot.

(6) If, after the ballots are printed, any candidate whose name appears thereon shall withdraw pursuant to KRS 118.212 or die,

(a) Neither the precinct election officers nor the county board of elections shall tabulate or record the votes cast for the candidate.

(b) The county clerk shall provide notices to the precinct election officers who shall see that a notice is conspicuously displayed at the polling place advising voters of the change, and that votes for the candidate shall not be tabulated or recorded. If the county clerk learns of the death or withdrawal at least five (5) days prior to the election and provides the notices required by this subsection and the precinct officers fail to post the notices at the polling place, the officers shall be guilty of a violation.

Section 4. KRS 118.356 is amended to read as follows:

(1) Certificates and petitions of nomination shall, in the case of candidates voted for by the state at large ***or***[~~,~~] by a district greater than one (1) county,[~~ or by a city whose boundaries extend beyond those of a single county,~~] be filed with the Secretary of State. In the case of candidates voted for by a county or by a district less than a county, they shall be filed with the county clerk. ***In the case of candidates voted for by a city whose boundaries extend beyond those of a single***

county, they shall be filed with the county clerk of the county in which a candidate resides. In the case of candidates for Congress and for General Assembly, they shall be filed with the Secretary of State.

(2) Certificates of nomination at a primary election held under this chapter shall be filed by the State Board of Elections or the county board of elections, depending upon which one issued the certificate. Certificates and petitions of nomination shall be filed by the candidate or by someone on his behalf.

HB 750, AN ACT relating to campaign finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 121.015 is amended to read as follows:

As used in this chapter:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Election" means any primary, runoff primary, regular, or special election to fill vacancies regardless of whether a candidate or slate of candidates is opposed or unopposed in an election. Each primary, runoff primary, regular, or special election shall be considered a separate election;

(3) "Committee" includes the following:

(a) "Campaign committee," which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific candidates or slates of candidates for nomination or election to any state, county, city, or district office, but does not include an entity established solely by a candidate which is managed solely by a candidate and a campaign treasurer and whose name is generic in nature, such as "Friends of (the candidate)," and does not reflect that other persons have structured themselves as a committee, designated officers of the committee, and assigned responsibilities and duties to each officer with the purpose of managing a campaign to support or oppose a candidate in an election;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which appears on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee or organization, other than a campaign committee, ***independent expenditures committee,*** political issues committee, inaugural committee, or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties, which functions on a regular basis throughout the year;

(d) An executive committee of a political party;[~~ and~~]

(e) "Inaugural committee," which means one (1) or more persons who receive contributions and make expenditures in support of inauguration activities for any candidate or slate of candidates elected to any state, county, city, or district office; ***and***

(f) "Independent expenditures committee," which means two (2) or more persons, including an association, committee, or other organization other than a campaign committee, political issues committee, inaugural committee, party executive committee, or permanent committee, that make independent expenditures in excess of one thousand dollars ($1,000) or receive in excess of one thousand dollars ($1,000) with which to make independent expenditures as defined in subsection (12) of this section;

(4) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contributions made by the groups in excess of one hundred dollars ($100) shall be reported to the registry;

(5) "Testimonial affair" means an affair held in honor of a person who holds or who is or was a candidate for nomination or election to a political office in this state designed to raise funds for any purpose not charitable, religious, or educational;

(6) "Contribution" means any[~~:~~

~~(a)~~] payment, distribution, loan, deposit, or gift of money or other thing of value, to a candidate, his agent, a slate of candidates, its authorized agent, a committee, or contributing organization. ***"Contribution"***[~~As used in this subsection, "loan"~~] shall include***:***

(a) A guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, candidate, slate of candidates, or other primary obligor. No person shall become liable as surety, endorser, or guarantor for any sum in any one (1) election which, when combined with all other contributions the individual makes to a candidate, his agent, a slate of candidates, its agent, a committee, or a contributing organization, exceeds the contribution limits provided in KRS 121A.050 or KRS 121.150;

(b) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person which are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(c) ***Written contract, written promise, or written agreement to make a payment to a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any purpose;***~~[Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a candidate, slate of candidates, committee, or contributing organization or for inauguration activities without charge, or at a rate which is less than the rate normally charged for the goods or services; or]~~

(d) ***Facilities, office space, or equipment supplied by any person to a candidate, slate of candidates, or committee without charge or at reduced charges, except gratuitous space for meeting purposes that is made available regularly and on an equal basis for similar purposes and on the same conditions to the public, including another candidate, slate of candidates, or committee***~~[Payment by any person other than a candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities]~~;

(e) Waiver or advance of a deposit for utilities service, including but not limited to telephone service; or

(f) Coordinated expenditure;

(7) Notwithstanding the foregoing meanings of "contribution," the word shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, ***slate of candidates,*** committee, ***party,*** or contributing organization;

(b) A loan of money by ***a state bank, federally chartered depository institution, or a depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, other than an overdraft made with respect to a checking or savings account, that is***~~[any financial institution doing business in Kentucky]~~ made in accordance with applicable banking laws and regulations and in the ordinary course of business. ***In order for this exemption to apply, a loan shall be evidenced by a written instrument, shall be subject to a due date or amortization schedule, and shall bear the usual and customary interest rate of the lending institution***;~~[or]~~

(c) An~~[independent]~~ expenditure ***that is not a coordinated expenditure***~~[by any individual or permanent committee]~~;

(d) Any unreimbursed payment for travel expenses made by a person who on his own behalf volunteers his personal services to any single candidate or any slate of candidates, to the extent that the cumulative value does not exceed two hundred dollars ($200) in any single election;

(e) To the extent that the cumulative value of the activities of this paragraph do not exceed five hundred dollars ($500) per contributor with respect to any single candidate or slate of candidates, a contributor may obtain or provide, in the course of volunteering personal services to any candidate, candidate's committee, or political party:

1. The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes; and

2. The cost of invitations, food, or beverages, voluntarily provided by any person to a candidate, candidate's committee, or political party;

(f) Payment by a political party of the costs incurred by the party of preparation, display, mailing, or other distribution of any campaign materials, including advertisements, sample ballots, pins, bumper stickers, handbills, brochures, posters, party tabloids, or yard signs, as long as the campaign materials contain the names of at least three (3) candidates of the same party, or the names of a gubernatorial slate and at least two (2) other candidates of the same party;

(g) Legal or accounting services rendered to or on behalf of a candidate, slate of candidates, candidate's or slate's committee, as long as the services are:

1. Voluntary or paid for solely by the regular employer of the individual rendering the services; and

2. Solely for the purpose of compliance with KRS Chapter 121 or 121A;

(h) Voter registration and get-out-the-vote campaigns by any nonprofit corporation, organization, or association, excluding political parties;

(i) Interest earned on any deposits made to a candidate campaign account, regardless of the source of the funds;

(j) Any communication made by a nonprofit corporation, organization, or association to its members, owners,

executive or administrative personnel, or their families;

(k) The provision of facilities, equipment, technical and managerial support, or broadcast time by a community antenna television company for community access programming;

(l) An offer or tender of a contribution that is expressly and unconditionally rejected and:

1. Returned to the donor within ten (10) business days after receipt, if the donor can be identified; or

2. Transmitted to the election campaign fund established by KRS 121A.020 within ten (10) business days, if the donor cannot be identified;

(m) Documents in printed or electronic form, including party platforms, single copies of issue papers, information relating to the requirements of KRS Chapter 121 or 121A, or lists of registered voters, that are created or maintained by a political party for the general purpose of party building and provided to a candidate or a slate of candidates who is a member of that party; or

(n) A news story, commentary, or editorial distributed through the facilities of any telecommunications system, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by a candidate, candidate's committee, permanent committee, or political party;

(8) "Candidate" means any person who has received contributions or made expenditures ***or disbursements***, has appointed a campaign treasurer, or has given his consent for any other person to receive contributions or make expenditures ***or disbursements*** with a view to bringing about his nomination or election to public office, except federal office;

(9) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures ***or disbursements***, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other person to receive contributions or make expenditures ***or disbursements*** with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(10) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware~~[or should have been aware]~~ that his conduct is of that nature or that the circumstance exists;

(11) "Fundraiser" means an individual who directly solicits and secures contributions on behalf of a candidate or slate of candidates for a statewide-elected state office or an office in a jurisdiction with a population in excess of two hundred thousand (200,000) residents;~~[and]~~

(12) "Independent expenditure" means ***any***~~[the]~~ expenditure ***that is not a coordinated expenditure and that is made***~~[of money or other things of value]~~ for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates ***by a person or committee other than a***~~[, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any]~~ candidate, slate of candidates, campaign committee, or any authorized ***agent***~~[person]~~ acting on behalf of any of them***;***

(13) "Expenditure" means any:

(a) Payment, advance, conveyance, deposit, donation, or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any candidate or slate of candidates or for the support of any committee that in turn supports or opposes any candidate or slate of candidates or for the purpose of paying a previously incurred campaign debt or obligation of a candidate, or slate of candidates, or the debts or obligations of a committee;

(b) Payment of, or an agreement or promise to pay, money or anything of value, including a candidate's personal monies, for the purchase of goods, services, property, facilities, or anything of value for the purpose of supporting or opposing the nomination or election of any candidate or slate of candidates or for the purpose of paying current or previously incurred campaign debts or obligations of a campaign or any committee;

(c) Payment by any person other than the candidate, his authorized treasurer, a slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person, that are rendered to a candidate, slate of candidates, committee, or contributing organization, or for inauguration activities;

(d) Purchase of tickets, goods, services, or political merchandise in connection with any testimonial affair or fundraising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program, or pamphlet of a candidate, slate of candidates, or committee;

(e) Transfer of funds by one (1) committee to another committee; or

(f) Waiver or advance of a deposit for utilities service, including but not limited to telephone service;

For purposes of this subsection, an expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value;

(14) Notwithstanding the foregoing meanings of "expenditure", it shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a candidate, slate of candidates, committee, or contributing organization;

(b) A loan of money by a state bank, a federally chartered depository institution, or a depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, other than an overdraft made in accordance with applicable law and in the ordinary course of business. In order for this exemption to apply, a loan shall be evidenced by a written instrument, shall be subject to a due date or amortization schedule, and shall bear the usual and customary interest rate of the lending institution;

(c) Any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to any single candidate or slate of candidates to the extent the cumulative value of the services does not exceed two hundred dollars ($200) in any single election;

(d) To the extent that the cumulative value of the activities of this paragraph do not exceed five hundred dollars ($500) per individual with respect to any single candidate or slate of candidates, a contributor may obtain or provide, in the course of volunteering personal services to any candidate, slate of candidates, candidate's committee, or political party:

1. The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes; and

2. The cost of invitations, food, or beverages, voluntarily provided by any person to a candidate, slate of candidates, candidate's committee, or political party;

(e) Payment by a political party committee of the costs incurred by the party of preparation, display, mailing, or other distribution with respect to any campaign materials, including advertisements, sample ballots, pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs, containing the names of at least three (3) candidates of the same party, or the names of the gubernatorial slate along with at least two (2) other candidates of the same party;

(f) Legal or accounting services rendered to or on behalf or a candidate, slate of candidates, or a candidate's or slate's committee, as long as the services are:

1. Voluntary or paid for solely by the regular employer of the individual rendering the services; and

2. Solely for the purpose of compliance with KRS Chapter 121 or 121A;

(g) Voter registration and get-out-the-vote campaigns by any nonprofit corporation, organization, or association, excluding political parties;

(h) Any communication made by a nonprofit corporation, organization, or association to its members, owners, executive or administrative personnel, or their families;

(i) Documents in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of KRS Chapter 121 or 121A, or lists of registered voters, created or maintained by a political party for the general purpose of party building and provided to a candidate or slate of candidates, who is a member of that party;

(j) A news story, commentary, or editorial distributed through the facilities of any telecommunications system, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by a candidate, slate of candidates, candidate's committee, permanent committee, or political party;

(k) Payment for a debate or other forum sponsored by a political party or affiliated committee in which a majority of the candidates for that party's nomination were invited to participate in equal numbers;

(l) Payment for a debate or other forum in which a proponent of a ballot measure and an opponent of a ballot measure were invited to participate in equal numbers; or

(m) Payment made by a bona fide service, social, business, trade, union, or professional organization or group for reasonable overhead expenses associated with the organization's regularly scheduled meeting at which a candidate or proponent or opponent of a ballot measure speaks, if the organization pays no additional costs in connection with the speaker's attendance;

(15) "Coordinated expenditure" means any expenditure as defined in subsection (13) of this section by any person or entity, other than a campaign committee, that is made:

(a) 1. With the intent to avoid the contribution limits set out in Section 4 of this Act or Section 24 of this Act;

2. With the intent to avoid the spending limits set out in subsection (3) of Section 25 of this Act or Section 15 of this Act; or

3. With the intent to avoid the reporting requirements set out in Section 7 of this Act; and

(b) 1. Pursuant to the request of a candidate, a member of a slate of candidates, or an authorized agent of a

candidate, a member of a slate of candidates, or campaign committee; or

2. For a communication that expressly advocates the election or defeat of a clearly identified candidate and the content, timing, location, mode, intended audience, or volume of that communication is the result of prior negotiation with a candidate, a member of a slate of candidates, or an authorized agent of any candidate, a member of a slate of candidates, or campaign committee;

(16) "Personal moneys" means any of the following:

(a) Assets to which the candidate has a legal right of access or control at the time he becomes a candidate, and with respect to which the candidate has either legal title or an equitable interest;

(b) Salary or other earned income from bona fide employment of the candidate;

(c) Dividends or proceeds from the sale of stocks or investments of the candidate;

(d) Bequests to the candidate;

(e) Income to the candidate from trusts established before candidacy;

(f) Income to the candidate from trusts established by bequest after candidacy, of which the candidate is a beneficiary;

(g) Personal gifts to the candidate of the kind that have been customarily received prior to the candidacy;

(h) Proceeds received by the candidate from lotteries or other legal games of chance;

(i) Proceeds obtained by the candidate that are not contributions and for which the collateral or security interest is covered by paragraphs (a) to (g) of this subsection; or

(j) Family contributions, meaning any contribution that is provided to a candidate's campaign committee by a parent, grandparent, spouse, child, or sibling of the candidate, or a spouse or parent of any of these persons;

(17) "Authorized agent" means any individual who has the actual oral or written authority of a candidate, slate of candidates, treasurer of a campaign committee, chair of any political party, or treasurer of any political party's special committee to request that an expenditure or contribution be made on behalf of the principal, or to negotiate the content, timing, location, mode, intended audience, or volume of any expenditure or contribution on behalf of the principal;

(18) "Clearly identified" means:

(a) The name of the candidate involved appears;

(b) A photograph or drawing of the candidate appears; or

(c) The identity of the candidate is apparent by unambiguous reference;

(19) "Expressly advocates" means to make any communication containing an explicit directive, either in words or by effect, that advocates the election or defeat of a candidate, including but not limited to a communication containing the name of the candidate or a slate of candidates, or expressions such as "vote for", "elect", "support", "campaign for", "contribute to", "cast your ballot for", "vote against", "defeat", or "reject";

(20) "Cash" means currency, coin, United States postage stamps, or any negotiable instrument that can be transferred from one (1) person to another without the signature or endorsement of the transferor;

(21) "Intentionally" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person's conscious objective is to cause that result or engage in that conduct;

(22) "File" or "filed" means submitted to and received in the offices of the registry on or before the day or time specified in the applicable statute or administrative regulation, and may include hand delivery, United States mail, private courier or delivery service, facsimile, or electronic filing; and if a document is filed by facsimile or electronic filing, a copy of the document bearing an original signature shall be filed with the registry within three (3) business days thereafter;

(23) "Election laws" means all those provisions contained in KRS Chapters 116, 117, 118, 118A, 118B, 119, and 120, and KRS 121.025, 121.035, 121.045, 121.055, 121.056, 121.065, Section 26 of this Act, KRS 121.320, and KRS 121.330, but does not mean subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, and Section 10 of this Act, nor any provision of KRS Chapter 121A;

(24) "Campaign finance laws" means all those provisions of KRS Chapter 121A and subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, and Section 10 of this Act; and

(25) "Disbursement" means any payment, advance, or conveyance of anything of value from any committee or any account authorized or required to be maintained under KRS Chapter 121 or 121A, and shall include, but not be limited to, an expenditure as defined in subsection (13) of this section.

Section 2. KRS 121.120 is amended to read as follows:

(1) The registry may:

(a) Require by special or general orders, any person to submit, under oath, any written reports and answers to questions as the registry may prescribe;

(b) Administer oaths or affirmations;

(c) Require by subpoena, signed by the chairman, the attendance and testimony of witnesses and the production of all documentary evidence, excluding individual and business income tax records, relating to the execution of its duties;

(d) In any proceeding or investigation, to order testimony to be taken by deposition before any person who is designated by the registry and has the power to administer oaths and, in those instances, to compel testimony and the production of evidence in the same manner as authorized under paragraph (c);

(e) Initiate, through civil actions for injunctive, declaratory, or other appropriate relief, defend, or appeal any civil action in the name of the registry to enforce the provisions of this chapter through its legal counsel;

(f) Render advisory opinions under KRS 121.135;

(g) Promulgate administrative regulations necessary to carry out the provisions of this chapter;

(h) Conduct investigations and hearings expeditiously, to encourage voluntary compliance, and report apparent ***knowing or intentional*** campaign finance law violations to the appropriate law enforcement authorities;

(i) Petition any court of competent jurisdiction to issue an order requiring compliance with an order or subpoena issued by the registry. Any failure to obey the order of the court may be punished by the court as contempt; and

(j) Conduct random audits of receipts and expenditures of committees which have filed registration papers with the registry pursuant to KRS 121.170.

(2) No person shall be subject to civil liability to any person other than the registry or the Commonwealth for disclosing information at the request of the registry.

(3) The registry may appoint a full-time executive director, legal counsel, and an accountant for auditing purposes, all of whom shall serve at the pleasure of the registry. The registry may also appoint such other employees as are necessary to carry out the purposes of this chapter. All requests for personnel appointments shall be forwarded by the registry directly to the secretary of the Personnel Cabinet and shall be subject to his review and certification only.

(4) The registry shall adopt official forms and perform other duties necessary to implement the provisions of this chapter and KRS Chapter 121A. The registry shall not require the listing of a person's Social Security number on any form developed by the registry. Without limiting the generality of the foregoing, the registry shall:

(a) Develop prescribed forms for the making of the required reports;

(b) Prepare and publish a manual for all candidates, slates of candidates, and committees, describing the requirements of the law, including uniform methods of bookkeeping and reporting, requirements as to reporting dates, and the length of time that candidates, slates of candidates, and committees are required to keep any records pursuant to the provisions of this chapter and KRS Chapter 121A;

(c) Develop a filing, coding, and cross-indexing system;

(d) Make each report filed available for public inspection and copying during regular office hours at the expense of any person requesting copies of them;

(e) Preserve all reports for at least six (6) years from the date of receipt. Duly certified reports shall be admissible as evidence in any court in the Commonwealth;

(f) Prepare and make available for public inspection a summary of all reports grouped according to candidates, slates of candidates, committees, contributing organizations, parties, and exploratory committees as defined in KRS 121A.010(9)(e) containing the total receipts and ***disbursements***~~[expenditures]~~; and

1. For each contribution made by a permanent committee of any amount to a candidate, slate of candidates, or exploratory committee, the date, name, and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, or to an exploratory committee, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor, listed alphabetically; and

3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2., the date, name, address, occupation, and employer of each other contributor or, if the contributor is self-employed, the name under which he is doing business,

and the amount contributed by each contributor, listed alphabetically;

(g) Prepare and publish an annual report with cumulative compilations named in paragraph (f) of this subsection;

(h) Distribute upon request, for a nominal fee, copies of all summaries and reports;

(i) Determine whether the required reports have been filed and if so, whether they conform with the requirements of this chapter and KRS Chapter 121A; give notice to delinquents to correct or explain defections; issue an order, if appropriate, as provided in KRS 121.140; and make public the fact that a violation has occurred and the nature thereof;

(j) Conduct random audits of receipts and expenditures of candidates running for city, county, urban-county government, charter county government, and district offices. When the registry audits the records of any selected candidate, it shall also audit the records of all other candidates running for the same office in the selected city, county, urban-county government, charter county government, or district office;

(k) Conduct audits of receipts and ***disbursements***~~[expenditures]~~ of all candidates or slates of candidates running for statewide office;

(l) Require that candidates and slates of candidates shall maintain their records for a period of six (6) years from the date of the regular election in their respective political races;

(m) Initiate investigations and make investigations with respect to reports upon complaint by any person and initiate proceedings on its own motion;

(n) Forward to the Attorney General or the appropriate Commonwealth's or county attorney any violations of this chapter and KRS Chapter 121A which may become the subject of civil or criminal prosecution; and

(o) Direct and administer the provisions of KRS Chapter 121A.

(5) All policy and enforcement decisions concerning the regulation of campaign finance shall be the ultimate responsibility of the registry. No appointed or elected state officeholder or any other person shall, directly or indirectly, attempt to secure or create privileges, exemptions, or advantages for himself or others in derogation of the public interest at large in a manner that seeks to leave any registry member or employee charged with the enforcement of the campaign finance laws no alternative but to comply with the wishes of the officeholder or person. Registry members and employees shall be free of obligation or the appearance of obligation to any interest other than the fair and efficient enforcement of the campaign finance laws and administrative regulations. It shall not be considered a violation of this subsection for an officeholder or other person to seek remedies in a court of law to any policy or enforcement decision he considers to be an abridgement of his legal rights.

Section 3. KRS 121.140 is amended to read as follows:

(1) Upon the sworn complaint of any person, or on its own initiative, the registry shall investigate alleged violations of campaign finance law. In conducting any investigation, the registry shall have the power of subpoena and may compel production of evidence including the financial records of any person determined by the registry to be vital to the investigation. The records subject to subpoena include, but are not limited to, a person's bank records and other relevant documents, but excluding individual and business income tax records.

(2) If the registry concludes that there is probable cause to believe that the ***campaign finance*** law has been violated, the registry shall notify the alleged violator of its conclusions and the evidence supporting them, and shall offer the alleged violator a conciliation agreement to resolve the issue. A conciliation agreement may require the alleged violator to comply with one (1) or more of the following ***civil penalties***:

(a) To cease and desist violations of the law;

(b) To file required reports or other documents or information;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report~~[, payment of an administrative fee,]~~ or other document or information required by law until the report,~~[fee payment,]~~ document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter.

(3) To accept a conciliation agreement, an alleged violator shall deliver the signed agreement to the registry either in person or by mail postmarked not later than ten (10) days after the day he received it. The registry may institute a civil action in Franklin Circuit Court or the Circuit Court for the county of the violator's residence to enforce the provisions of any conciliation agreement accepted by a violator who is not complying with its provisions.

(4) If the alleged violator declines to accept the conciliation agreement or fails to respond within the time allowed, the registry shall submit a written request to the Chief Justice of the Kentucky Supreme Court to recommend not fewer than five (5) nor more than ten (10) retired or former justices or retired or former judges of the Court of Justice who are qualified and willing to conduct a hearing to determine if a violation has occurred. Upon receipt of the recommendations of the Chief

Justice, the registry shall randomly select one (1) retired or former justice or judge from the list to conduct the hearing, which shall be held in accordance with the Kentucky Rules of Civil Procedure, or, if the Chief Justice declines to make recommendations, the registry, on its own initiative, shall request retired or former justices or judges to serve. The time and location of hearings shall be determined by the registry. Retired or former justices or judges selected to serve shall receive reimbursement from the registry for their reasonable and necessary expenses incurred as a result of the performance of their duties at the hourly rate set for attorneys by the Finance and Administration Cabinet. The registry shall notify the complainant and the alleged violator that a hearing shall be conducted of the specific offenses alleged not less than thirty (30) days prior to the date of the hearing. At the hearing, which shall be open to the public pursuant to KRS 61.810, the attorney for the registry shall present the evidence against the alleged violator, and the alleged violator shall have all of the protections of due process, including, but not limited to, the right to be represented by counsel, the right to call and examine witnesses, the right to the production of evidence by subpoena, the right to introduce exhibits and the right to cross-examine opposing witnesses. If the justice or judge determines that the preponderance of the evidence shows a violation has occurred, the justice or judge shall render a decision not more than sixty (60) days after the case is submitted for determination. The decision shall become the final decision of the registry unless the registry board at its next regular meeting acts to set aside or modify the justice's or judge's decision, in which case the registry board's decision shall become the final registry decision. A party adversely affected by the registry's order may appeal to Franklin Circuit Court within thirty (30) days after the date of the registry's order. The violator may be ordered to comply with any one (1) or more of the ***civil penalties***~~[following requirements]~~:

(a) To cease and desist violation of this law;

(b) To file any reports or other documents or information required by this law;

(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), for failure to file any report, payment of an administrative fee, or other document or information required by law until the report, fee payment, document, or information is filed; except that there shall be no maximum total fine for candidates for statewide office; or

(d) To pay a penalty not to exceed five thousand dollars ($5,000) per violation for acts of noncompliance with provisions contained within this chapter. An appeal of an order shall be advanced on the docket to permit a timely decision.

(5) If the registry concludes that there is probable cause to believe that the campaign finance law has been violated knowingly ***or intentionally***, it shall refer the violation to the Attorney General or the appropriate Commonwealth's or county attorney for prosecution. ***No person shall be prosecuted for any violation of any campaign finance law, as defined in subsection (24) of Section 1 of this Act, unless there has been a determination of probable cause and referral of the violation by the registry as provided in this subsection. The absence of a determination of probable cause and a referral by the registry shall be a complete defense to an indictment for a violation of a campaign finance law as defined in subsection (24) of Section 1 of this Act.*** The Attorney General may request the registry's attorney or the appropriate county or Commonwealth's attorney to prosecute the matter and may request from the registry all evidence collected in its investigation. In the event the Attorney General or the appropriate local prosecutor fails to prosecute in a timely fashion, the registry may petition the Circuit Court to appoint the registry's attorney to prosecute, and upon a motion timely filed, for good cause shown, the court shall enter an order to that effect. Prosecutions involving campaign finance law violations, in which the reports are required to be filed in Frankfort, may be conducted in Franklin Circuit Court or in the Circuit Court for the county in which the contribution or expenditure constituting a campaign finance violation was solicited, made, or accepted. The prosecution of a person who unlawfully solicits, makes, or accepts a contribution or expenditure through the use of the mail may be conducted in the Circuit Court for the county in which the solicitation is mailed, the county in which the contribution is mailed or received, or the county in which the expenditure is mailed.

(6) Any person directly involved or affected by an action of the registry which is final, other than of a determination to refer a violation to the Attorney General or appropriate Commonwealth's or county attorney for prosecution, may seek judicial review of the action within thirty (30) days after the date of the action.

(7) If judicial review is sought of any action of the registry relating to a pending election, the matter shall be advanced on the docket of the court. The court may take any steps authorized by law to accelerate its procedures so as to permit a timely decision.

Section 4. KRS 121.150 is amended to read as follows:

(1) No contribution shall be made or received, directly or indirectly~~[, other than an independent expenditure,]~~ to support inauguration activities or to support or defeat a candidate, slate of candidates, constitutional amendment, or public question which will appear on the ballot in an election, except through the duly appointed campaign manager, or campaign treasurer of the candidate, slate of candidates, or registered committee.~~[Any person making an independent expenditure, shall report these expenditures when the expenditures by that person exceed five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.]~~

(2) Except as provided in KRS 121.180(10), the solicitation from and contributions by campaign committees, political issues committees, permanent committees, and party executive committees to any religious, charitable, civic, eleemosynary, or other causes or organizations established primarily for the public good is expressly prohibited; except that it shall not be construed as a violation of this section for a candidate to contribute to religious, civic, or charitable groups.

(3) No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf, shall accept any anonymous contribution in excess of fifty dollars ($50), and all anonymous contributions in excess of fifty dollars ($50) shall be returned to the donor, if the donor can be determined. If no donor is found, the contribution shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020. No candidate, slate of candidates, committee, or contributing organization, nor anyone acting on their behalf shall accept anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate in any one (1) election. Anonymous contributions in excess of one thousand dollars ($1,000) in the aggregate which are received in any one (1) election shall escheat to the state and be transferred to the election campaign fund established by KRS 121A.020.

(4) No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cash contribution in excess of fifty dollars ($50) in the aggregate from each contributor in any one (1) election. No candidate, committee, or contributing organization, nor anyone on their behalf, shall accept a cashier's check or money order in excess of the maximum cash contribution limit unless the instrument clearly identifies both the payor and the payee. A contribution made by cashier's check or money order which identifies both the payor and payee shall be treated as a contribution made by check for purposes of the contribution limits contained in this section. No person shall make a cash contribution in excess of fifty dollars ($50) in the aggregate in any one (1) election to a candidate, committee, or contributing organization, nor anyone on their behalf.

(5) No candidate, slate of candidates, committee, contributing organization, nor anyone on their behalf, shall accept any contribution in excess of one hundred dollars ($100) from any person who shall not become eighteen (18) years of age on or before the day of the next general election.

(6) No candidate, campaign committee,~~[political issues committee,]~~ nor anyone acting on their behalf, shall accept a contribution of more than one thousand dollars ($1,000) from any person, permanent committee, or contributing organization in any one (1) election; except that no candidate for school board, his campaign committee, nor anyone acting on their behalf shall accept a contribution of more than one hundred dollars ($100) from any person or more than two hundred dollars ($200) from any permanent committee or contributing organization in any one (1) election. No person, permanent committee, or contributing organization shall contribute more than one thousand dollars ($1,000) to any one (1) candidate, campaign committee,~~[political issues committee,]~~ nor anyone acting on their behalf, in any one (1) election; except that no person shall contribute more than one hundred dollars ($100) and no permanent committee or contributing organization shall contribute more than two hundred dollars ($200) to any one (1) school board candidate, his campaign committee, nor anyone acting on their behalf, in any one (1) election. Limits on contributions for slates of candidates for Governor and Lieutenant Governor which may be made or received in any one (1) election shall be governed by the provisions of KRS 121A.050.

(7) Permanent committees or contributing organizations affiliated by bylaw structure or by registration, as determined by the Registry of Election Finance, shall be considered as one (1) committee for purposes of applying the contribution limits of subsection (6) of this section.

(8) No permanent committee shall contribute funds to another permanent committee for the purpose of circumventing contribution limits of subsection (6) of this section.

(9) No person shall contribute funds to a permanent committee,~~[political issues committee,]~~ or contributing organization for the purpose of circumventing the contribution limits of subsection (6) of this section.

(10) No person shall contribute more than one thousand five hundred dollars ($1,500) to all permanent committees and contributing organizations in any one (1) year.

(11) No person shall contribute more than two thousand five hundred dollars ($2,500) to the state executive committee of a political party and its subdivisions and affiliates in any one (1) year. Contributions a person makes to a political party in excess of one thousand dollars ($1,000) in any one (1) year shall be deposited in a separate account which the state executive committee maintains for the exclusive purpose of paying administrative costs incurred by the political party.

(12) No person shall make a payment, distribution, loan, advance, deposit, or gift of money to another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf. No candidate, committee, contributing organization, nor anyone on their behalf shall accept a contribution made by one (1) person who has received a payment, distribution, loan, advance, deposit, or gift of money from another person to contribute to a candidate, committee, contributing organization, or anyone on their behalf.

(13) No candidates running as a slate for the offices of Governor and Lieutenant Governor shall make combined total personal loans to their committee in excess of fifty thousand dollars ($50,000) in any one (1) election. No candidate for any other statewide elected state office shall lend to his committee any amount in excess of twenty-five thousand dollars ($25,000) in any one (1) election. In campaigning for all other offices, no candidate shall lend to his committee more than ten thousand dollars ($10,000) in any one (1) election. ***All personal monies loaned to a committee shall be subject to the***

applicable reporting requirements in Section 7 of this Act or Section 14 of this Act.

(14) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for primary election expenses after the date of the primary. No person other than the candidate or slate of candidates shall contribute for primary election expenses after the date of the primary.

(15) Subject to the provisions of subsection (20) of this section, no slate of candidates for nomination for election to the offices of Governor and Lieutenant Governor, nor its campaign committees, nor anyone on their behalf, shall solicit or accept contributions for runoff primary election expenses after the date of the runoff primary. No person other than the slated candidates shall contribute for runoff primary election expenses after the date of the runoff primary.

(16) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for any state, county, city, or district office at a regular election, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for regular election expenses after the date of the regular election. No person other than the candidate or slate of candidates shall contribute for regular election expenses after the date of the regular election.

(17) Subject to the provisions of subsection (20) of this section, no candidate or slate of candidates for nomination or election to any state, county, city, or district office, nor their campaign committees, nor anyone on their behalf, shall solicit or accept contributions for special election expenses after the date of the special election. No person other than the candidate or slate of candidates shall contribute for special election expenses after the date of the special election.

(18) Nothing in subsections (14) to (17) of this section shall be deemed to prohibit a slate of candidates from receiving transfers from the election campaign fund established by KRS 121A.020 for which it is eligible for matches of qualifying contributions received prior to the date of the election but for which no transfer from the fund had been made prior to the date of the election.

(19) The provisions of subsections (14) and (16) of this section shall apply only to those candidates in a primary or regular election which shall be conducted subsequent to January 1, 1989. The provisions of subsections (15) and (17) of this section shall apply only to those candidates or slates of candidates in a runoff primary or special election which shall be conducted subsequent to January 1, 1993.

(20) A candidate, slate of candidates, or a campaign committee may solicit and accept contributions after the date of a primary election, runoff primary election, regular election, or special election to defray necessary expenses that arise after the date of the election associated with election contests, recounts, and recanvasses of a specific election, complaints regarding alleged campaign finance violations that are filed with the registry pertaining to a specific election, or other legal actions pertaining to a specific election to which a candidate, slate of candidates, or campaign committee is a party. Reports of contributions received and expenditures made after the date of the specific election shall be made in accordance with KRS 121.180.

(21) No slate of candidates for Governor and Lieutenant Governor or their immediate families shall loan any money, service, or other thing of value to their campaign, and all moneys, services, or other things of value which are loaned shall be deemed a contribution, which may not be recovered by the slate of candidates, except to the extent of a combined total of fifty thousand dollars ($50,000). ***All personal monies loaned to a slate's campaign shall be subject to the applicable reporting requirements in Section 7 of this Act or Section 14 of this Act.***

(22) No candidate, slate of candidates, committee, except a political issues committee, or contributing organization, nor anyone on their behalf, shall knowingly accept a contribution from a corporation, directly or indirectly.

(23) Nothing in this section shall be construed to restrict the ability of a corporation to administer its permanent committee insofar as its actions can be deemed not to influence an election as prohibited by KRS 121.025.

(24) In addition to the prohibitions set forth in this section, no slate of candidates shall accept any contribution during the twenty-eight (28) days immediately preceding a primary or regular election except as provided in KRS 121A.030(5).

(25) No candidate, slate of candidates, or committee, nor anyone on their behalf, shall solicit a contribution of money or services from a state employee, whether or not the employee is covered by the classified service provisions of KRS Chapter 18A. However, it shall not be a violation of this subsection for a state employee to receive a solicitation directed to him as a registered voter in an identified precinct as part of an overall plan to contact voters not identified as state employees.

(26) (a) A candidate for elective public office, except slates of candidates for Governor and Lieutenant Governor, shall not accept contributions from permanent committees which, in the aggregate, exceed fifty percent (50%) of the total contributions accepted by the candidate in any one (1) election or ten thousand dollars ($10,000) in any one (1) election, whichever is the greater amount. The percentage of the total contributions or dollar amounts of contributions accepted by a candidate in an election that is accepted from permanent committees shall be calculated as of the day of each election. Funds in a candidate's campaign account which are carried forward from one (1) election to another shall not be considered in calculating the acceptable percentage or dollar amount of contributions which may be accepted from permanent committees for the election for which the funds are carried forward. A candidate may, without penalty, contribute funds to his campaign account not later than sixty (60) days

following the election so as not to exceed the permitted percentage or dollar amount of contributions which may be accepted from permanent committees or the candidate may, not later than sixty (60) days after the end of the election, refund any excess permanent committee contributions on a pro rata basis to the permanent committees whose contributions are accepted after the aggregate limit has been reached.

(b) The provisions of paragraph (a) of this subsection regarding the receipt of aggregate contributions from permanent committees in any one (1) election shall also apply separately to the receipt of aggregate contributions from executive committees of any county, district, state, or federal political party in any one (1) election.

(27) No candidate or slate of candidates for any office in this state shall accept a contribution, including an in-kind contribution, which is made from funds in a federal campaign account. No person shall make a contribution, including an in-kind contribution, from funds in a federal campaign account to any candidate or slate of candidates for any office in this state.

(28) Any person making an independent expenditure shall report these expenditures when the expenditure by that person exceeds five hundred dollars ($500) in the aggregate in any one (1) election, on a form provided by the registry and shall sign a statement on the form, under penalty of perjury, that the expenditure was an actual independent expenditure and that there was no prior communication with the campaign on whose behalf it was made.

(29) All contributions of personal moneys shall be subject to the applicable reporting requirements of Section 7 or 14 of this Act.

Section 5. KRS 121.160 is amended to read as follows:

(1) As part of the filing papers each candidate or slate of candidates shall, on a duplicate form prescribed and furnished by the registry, designate a campaign treasurer to act as their agent at the time and at the office with which they file as a candidate or slate of candidates and until this requirement is met the candidate or slate of candidates shall be listed as their own treasurer and accountable as such. The candidate or slate of candidates may appoint themselves or any registered voter in Kentucky as the campaign treasurer. The office with which the candidate or slate of candidates is required to file shall immediately forward to the registry the duplicate copy of the completed form designating the candidate's or slate's campaign treasurer and shall attach the original to the candidate's or slate's filing papers. The office with which the candidate or slate of candidates files shall promptly notify the registry when a candidate withdraws.

(2) The duties of a campaign treasurer shall be to:

(a) Designate a depository bank in which the primary campaign account shall be maintained and deposit all contributions in that account;

(b) Keep detailed and exact accounts of:

1. Contributions of any amount made by a permanent committee, by name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. Contributions in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, by the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and

3. Contributions in excess of one hundred dollars ($100) made to any candidate other than those specified in subparagraph 2., by name, address, age if under legal voting age, date of the contribution, amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed. The occupation listed for the contributor shall be specific. A general classification, such as "businessman", shall be insufficient;

(c) Make or authorize all expenditures ***and disbursements*** on behalf of a candidate or slate of candidates. Any expenditure ***or disbursement*** in excess of twenty-five dollars ($25) shall be by check and the treasurer's records shall disclose the name, address, and occupation of every person or firm to whom made, and shall list the date and amount of the expenditure ***or disbursement*** and the treasurer shall keep a receipted bill for each;

(d) Maintain all receipted bills and accounts required by this section for a period of six (6) years from the date he files his last report under KRS 121.180(3)(b)1.; and

(e) Make no payment to any person not directly providing goods or services with the intent to conceal payment to another.

(3) A candidate or slate of candidates may remove a campaign treasurer at any time.

(4) In case of the death, resignation, or removal of a campaign treasurer, the candidate or slate of candidates shall within three (3) days after receiving notice thereof by certified mail, appoint a successor and shall file his name and address with the registry. The candidate, or slate shall be accountable as their own campaign treasurer if they fail to meet this filing requirement.

(5) A person may serve as campaign treasurer for more than one (1) candidate or slate of candidates, but all reports shall be

made separately for each individual candidate or slate.

(6) The candidate or slate of candidates may pay a campaign treasurer a salary for his services which shall be considered a campaign expense and shall comply with the reporting provisions of KRS 121.180 and administrative regulations promulgated by the registry.

Section 6. KRS 121.175 is amended to read as follows:

(1) No candidate, committee, or contributing organization shall permit funds in a campaign account to be expended for any purpose other than for allowable campaign ***disbursements***[~~expenditures~~]. "Allowable campaign ***disbursements***[~~expenditures~~]" means ***disbursements***[~~expenditures~~] including reimbursement for actual expenses, made directly and primarily in support of or opposition to a candidate, constitutional amendment, or public question which will appear on the ballot and includes, but is not limited to, ***disbursements***[~~expenditures~~] for staff salaries, gifts and meals for volunteer campaign workers, food and beverages provided at a campaign rally, advertising, office space, necessary travel, campaign paraphernalia, purchases of advertisements in athletic and scholastic publications, communications with constituents or prospective voters, polling and consulting, printing, graphic arts, or advertising services, postage, office supplies, stationery, newsletters, and equipment which is used primarily for the administration of the campaign. "Allowable campaign ***disbursements***[~~expenditures~~]" does not include ***disbursements***[~~expenditures~~] of funds in a campaign account for any purpose made unlawful by other provisions of the Kentucky Revised Statutes or which would bestow a private pecuniary benefit, except for payment of the reasonable value of goods and services provided upon a candidate, member of the candidate's family, committee, or contributing organization, or any of their employees, paid or unpaid, including: tickets to an event which is unrelated to a political campaign or candidacy; items of personal property for distribution to prospective voters except items bearing the name, likeness, or logo of a candidate or a campaign-related communication; expenditures to promote or oppose a candidacy for a leadership position in a governmental, professional, or political organization, or other entity; and equipment or appliances the primary use of which is for purposes outside of the campaign. The provisions of KRS 121.190 notwithstanding, a candidate shall not be required to include a disclaimer on campaign stationery purchased with funds from his campaign account. A member of the General Assembly may utilize funds in his campaign account to purchase admission tickets for political party functions, to purchase items with a value of not in excess of one hundred dollars ($100) for donation to a political party for auctions and fundraisers, and to participate in or support other events sponsored by a political party. A member of the General Assembly may make allowable campaign expenditures in both election years and nonelection years.

(2) By December 31, 1993, the registry shall promulgate administrative regulations to implement and enforce the provisions of subsection (1).

(3) In lieu of the penalties provided in KRS 121.140 and 121.990 for a violation of this section, the registry may, after hearing:

(a) For a violation which was not committed knowingly, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign ***disbursements***[~~expenditures~~], and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000); and

(b) For a violation which was committed knowingly, in addition to referring the matter for criminal prosecution, order the violator to repay the amount of campaign funds which were expended for other than allowable campaign expenditures, and if not repaid within thirty (30) days, may impose a fine of up to one hundred dollars ($100) for each day the amount is not repaid, up to a maximum fine of one thousand dollars ($1,000).

Section 7. KRS 121.180 is amended to read as follows:

(1) (a) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any preelection finance reports required by subsection (3) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that contributions will not be accepted or expended in excess of three thousand dollars ($3,000) in any one (1) election to further the candidacy or to support or oppose a constitutional amendment or public question which will appear on the ballot. For a candidate for judicial office who desires to be exempt from filing preelection campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(b) Any candidate, slate of candidates, or political issues committee shall be exempt from filing any campaign finance reports required by subsections (3) and (4) of this section or KRS 121A.020(5), whichever is applicable, if the candidate, slate of candidates, or political issues committee chairman files a form prescribed and furnished by the registry stating that currently no contributions have been received and that contributions will not be accepted or expended in excess of one thousand dollars ($1,000) in any one (1) election. For a candidate for judicial office who desires to be exempt from filing any campaign finance reports as provided in this paragraph, the request for exemption shall be filed by the campaign treasurer of the candidate's campaign committee, but the candidate shall be personally liable for any violation if the campaign treasurer accepts contributions or makes expenditures in excess of the limit and shall be subject to the same penalties as a candidate as provided in subparagraph (l)1. or 2. of this subsection. A separate form shall be required for each primary, runoff primary, regular, or special election in which the candidate or slate of candidates participates or in which the public question appears on the ballot, unless the candidate, slate of candidates, or political issues committee chairman indicates on a request for exemption that the request will be applicable to more than one (1) election. The form shall be filed with the same office with which a candidate or slate of candidates files nomination papers or, in the case of a political issues committee, with the registry.

(c) For a primary election, a candidate or slate of candidates shall file a request for exemption not later than the deadline for filing nomination papers and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. For a runoff primary election, a slate of candidates shall file its request for exemption not later than five (5) days after the date of the preceding primary election and shall be bound by its terms unless rescinded in writing not later than ten (10) days after the date of the preceding primary election. For a regular election, a candidate or slate of candidates shall file or rescind in writing a request for exemption not later than twenty-five (25) days after the date of the preceding primary election, or runoff primary, if one is held, except as provided in subparagraph 2. of paragraph (d) of this subsection. For a special election, a candidate or slate of candidates shall file a request for exemption not later than ten (10) days after the candidate or slate of candidates is nominated for a special election and shall be bound by its terms unless it is rescinded in writing not later than twenty-five (25) days after the date on which the nomination for a special election is made. A political issues committee chairman shall file a request for exemption not later than ten (10) days after the date on which the committee registers with the registry and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the date on which the request for exemption is filed.

(d) 1. A candidate or slate of candidates that revokes a request for exemption in a timely manner may exercise the remaining option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. If a candidate or slate of candidates elects to exercise a different option, the candidate or slate of candidates shall file the appropriate form with the officer who received the filing papers of the candidate or slate of candidates not later than the deadline for filing a revocation.

2. A candidate for any city or county office or for any school board office, who is exempted from some or all campaign finance reporting requirements pursuant to paragraph (a) or (b) of this subsection but who accepts contributions or makes expenditures in excess of the exempted amount in an election, shall file all applicable reports required for the remainder of that election, based upon the amount of contributions or expenditures the candidate accepts or receives in that election. The filing of applicable required reports by a candidate after the exempted amount is exceeded shall serve as notice to the registry that the initial exemption has been rescinded. No further notice to the registry shall be required and no penalty for exceeding the initial exempted amount shall be imposed against the candidate, except for failure to file applicable reports required after the exempted amount is exceeded.

(e) Any candidate or slate of candidates that is subject to an August filing deadline and that intends to execute a request for exemption shall file the appropriate request for exemption not later than the filing deadline and, except as provided in subparagraph 2. of paragraph (d) of this subsection, shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline. A candidate or slate of candidates that is covered by this paragraph shall have the same reversion rights as those provided in subparagraph 1. of paragraph (d) of this subsection.

(f) Any candidate or slate of candidates that will appear on the ballot in a regular election that has signed either request for exemption for that election may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection if a candidate or slate of candidates that is subject to an August filing deadline subsequently files in opposition to the candidate or slate of candidates. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate or slate of candidates covered by this paragraph shall comply with the deadline for rescission provided in subparagraph 1. of paragraph (d) of this subsection.

(g) Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate or slate of candidates that has filed a request for exemption for a regular election that later is opposed by a person who has filed a declaration of intent to receive write-in votes may rescind the request for exemption and exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(h) Any candidate or slate of candidates that has filed a request for exemption may petition the registry to determine whether another person is campaigning as a write-in candidate prior to having filed a declaration of intent to receive write-in votes, and, if the registry determines upon a preponderance of the evidence that a person who may later be a write-in candidate is conducting a campaign, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may petition the registry to permit the candidate or slate of candidates to exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection.

(i) If the opponent of a candidate or slate of candidates is replaced due to his withdrawal because of death, disability, or disqualification, the candidate or slate of candidates, except as provided in subparagraph 2. of paragraph (d) of this subsection, may exercise the reversion rights provided in subparagraph 1. of paragraph (d) of this subsection not later than fifteen (15) days after the party executive committee nominates a replacement for the withdrawn candidate or slate of candidates.

(j) A person intending to be a write-in candidate for any office in a regular or special election may execute a request for exemption under paragraph (a) or (b) of this subsection and shall be bound by its terms unless it is rescinded in writing not later than fifteen (15) days after the filing deadline for the regular or special election. A person intending to be a write-in candidate who revokes a request for exemption in a timely manner may exercise the remaining exemption option or may file all reports required of a candidate intending to raise or spend in excess of three thousand dollars ($3,000) in an election. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a person intending to be a write-in candidate who elects to exercise a different exemption option shall file the appropriate form with the officer who received the initial request for exemption not later than fifteen (15) days after the filing deadline for the regular or special election.

(k) Except as provided in subparagraph 2. of paragraph (d) of this subsection, the campaign committee of any candidate or slate of candidates that has filed a request for exemption or a political issues committee whose chairman has filed a request for exemption shall be bound by its terms unless it is rescinded in a timely manner and no new request for exemption has been executed.

(l) 1. Except as provided in subparagraph 2. of paragraph (d) of this subsection, any candidate, slate of candidates, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that accepts contributions or makes expenditures, or whose campaign treasurer accepts contributions or makes expenditures, in excess of the applicable limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and, in lieu of other penalties prescribed by law, pay a fine of not more than five hundred dollars ($500) plus the amount by which the spending limit was exceeded.

2. Except as provided in subparagraph 2. of paragraph (d) of this subsection, a candidate, slate of candidates, campaign committee, or political issues committee that is exempt from filing campaign finance reports pursuant to paragraph (a), (b), (e), or (j) of this subsection that knowingly accepts contributions or makes expenditures in excess of the applicable spending limit in any one (1) election without rescinding the request for exemption in a timely manner shall comply with all applicable reporting requirements and shall be guilty of a Class D felony.

(2) (a) State and county executive committees shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures ***and disbursements*** authorized, incurred, or made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

2. For other contributions in excess of one hundred dollars ($100), the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

3. The total amount of cash contributions received during the reporting period; and

4. A complete statement of expenditures ***and disbursements*** authorized, incurred, or made. The complete statement of expenditures ***and disbursements*** shall include the name and address of each person to whom an expenditure is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure ***or disbursement***.

(b) This report shall be in the hands of the registry or postmarked within five (5) days after the thirtieth day following the primary, runoff primary if slates of candidates of that party participate, and regular elections. If an individual gives a reportable contribution to a state or county executive committee with the intention that the contribution or a portion of the contribution go to a candidate or slate of candidates, the name of the contributor and the sum shall be indicated on the committee report. The receipts, ***disbursements,*** and expenditures of funds remitted to each political party under KRS 141.071 to 141.073 shall be separately accounted for and reported to the registry in the manner required by KRS 121.230. The separate report may be made a separate section within the report required, by this subsection, to be in the hands of the registry or postmarked within five (5) days after the thirtieth day following each regular election.

(3) (a) Except for candidates or slates of candidates, campaign committees, or political issues committees exempted from reporting requirements pursuant to subsection (1) of this section, each campaign treasurer of a candidate, slate of candidates, campaign committee, or political issues committee who accepts contributions***, disburses,*** or expends, expects to accept contributions or expend ***or disburse***, or contracts to expend ***or disburse*** more than three thousand dollars ($3,000) in any one (1) election, and each fundraiser who secures contributions in excess of three thousand dollars ($3,000) in any one (1) election, shall make a full report, upon a prescribed form, to the registry, of all money, loans, or other things of value, received from any source, and expenditures authorized, incurred, and made, since the date of the last report, including:

1. For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;
2. For each contribution in excess of one hundred dollars ($100) made to a candidate or slate of candidates for a statewide-elected state office, or to a campaign committee for a candidate or slate of candidates for a statewide-elected state office, the date, name, address, occupation, and employer of each contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and the amount contributed by each contributor; and
3. For each contribution in excess of one hundred dollars ($100) made to any candidate or campaign committee other than those specified in subparagraph 2. or a political issues committee, the full name, address, age if less than the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each other contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;
4. The total amount of cash contributions received during the reporting period; and
5. A complete statement of all expenditures ***and disbursements*** authorized, incurred, or made. The complete statement of expenditures ***and disbursements*** shall include the name, address, and occupation of each person to whom an expenditure ***or disbursements*** is made in excess of twenty-five dollars ($25), and the amount, date, and purpose of each expenditure ***or disbursement***.

(b) Reports of all candidates, campaign committees, political issues committees, and registered fundraisers shall be made as follows:

1. Candidates as defined in KRS 121.015(8), campaign committees, political issues committees, and fundraisers which register in the year before the year an election in which the candidate or public question shall appear on the ballot, shall file financial reports with the registry at the end of the first calendar quarter after the person becomes a candidate or following registration of the committee or fundraiser, and each calendar quarter thereafter, ending with the last calendar quarter of that year. Candidates, committees, and registered fundraisers shall make all reports required by this section during the year in which the election takes place;
2. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the thirty-second day preceding an election, including all previous contributions and expenditures;
3. All candidates, campaign committees, political issues committees, and registered fundraisers shall make reports on the fifteenth day preceding the date of the election; and
4. All reports to the registry shall be in the hands of the registry or postmarked within five (5) days after each filing deadline.

(4) Except for candidates, slates of candidates, and political issues committees, exempted pursuant to subsection (1)(b) of this section, all candidates, regardless of funds received or expended, campaign committees, political issues committees, and registered fundraisers shall make post-election reports within thirty (30) days after the election.

(5) In making the preceding reports, the total gross receipts from each of the following categories shall be listed: proceeds from the sale of tickets for events such as testimonial affairs, dinners, luncheons, rallies, and similar fundraising events, mass collections made at the events, and sales of items such as campaign pins, buttons, hats, ties, literature, and similar materials. When any individual purchase or the aggregate purchases of any item enumerated above from a candidate or slate of candidates for a statewide-elected state office or a campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age, if less than the legal voting age, occupation, and employer and the employer of the spouse of the purchaser or, if the purchaser or the spouse of the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. When any individual purchase or the aggregate purchases of any item enumerated above from any candidate

or campaign committee other than a candidate or slate of candidates for a statewide-elected state office or campaign committee for a candidate or slate of candidates for a statewide-elected state office exceeds one hundred dollars ($100), the purchaser shall be identified by name, address, age if less than the legal voting age, occupation, and employer, or if the purchaser is self-employed, the name under which he is doing business, and the amount of the purchase. The lists shall be maintained by the campaign treasurer, political issues committee treasurer, registered fundraiser, or other sponsor for inspection by the registry for six (6) years following the date of the election.

(6) Each permanent committee, except a federally-registered out-of-state permanent committee, inaugural committee, or contributing organization shall make a full report, upon a prescribed form, to the registry of all money, loans, or other things of value, received by it from any source, and all expenditures ***and disbursements*** authorized, incurred, or made, since the date of the last report, including:

(a) For each contribution of any amount made by a permanent committee, the name and business address of the permanent committee, the date of the contribution, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee;

(b) For other contributions in excess of one hundred dollars ($100), the full name, address, age if under the legal voting age, the date of the contribution, the amount of the contribution, and the employer and occupation of each contributor. If the contributor is self-employed, the name under which he is doing business shall be listed;

(c) An aggregate amount of cash contributions, the amount contributed by each contributor, and the date of each contribution; and

(d) A complete statement of all expenditures ***and disbursements*** authorized, incurred, or made, including independent expenditures. This report shall be made by a permanent committee, inaugural committee, or contributing organization to the registry on the last day of the first calendar quarter following the registration of the committee with the registry and on the last day of each succeeding calendar quarter until such time as the committee terminates. A contributing organization shall file a report of contributions received and expenditures ***and disbursements*** made on forms prescribed by the registry not later than the last day of each calendar quarter in which contributions are received or expenditures are made. All reports to the registry shall be postmarked or received not later than five (5) days after each filing deadline.

(7) If the final statement of a candidate, campaign committee, or political issues committee shows an unexpended balance of contributions, continuing debts and obligations, or an expenditure ***or disbursement*** deficit, the campaign treasurer shall file with the registry a supplemental statement of contributions***, disbursements,*** and expenditures not more than thirty (30) days after the deadline for filing the final statement. Subsequent supplemental statements shall be filed annually, to be in the hands of the registry or postmarked not later than ten (10) days after November 1 of each year, until the account shows no unexpended balance, continuing debts and obligations, expenditures, ***disbursements,*** or deficit, or until the year before the candidate seeks to appear on the ballot for the same office for which the funds in the campaign account were originally contributed, in which case the candidate shall file the supplemental annual report not later than ten (10) days after November 1 of that year or at the end of the first calendar quarter of that year after the candidate files his nomination papers for the next year's primary or regular election. All contributions shall be subject to KRS 121.150.

(8) All reports filed under the provisions of this chapter shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry. A duplicate copy of each report filed with the registry shall be filed by the candidate, slate of candidates, or committee with the county clerk in the county in which the candidate or persons running as a slate of candidates reside at the same time. County clerks shall maintain these reports for public inspection for a period of one (1) year from the date the last report is required to be filed.

(9) A candidate or slate of candidates is relieved of the duty personally to file reports and keep records of receipts***, disbursements,*** and expenditures if the candidate or slate states in writing or on forms provided by the registry that:

(a) Within five (5) business days after personally receiving any contributions, the candidate or slate of candidates shall surrender possession of the contributions to the treasurer of their principal campaign committee without expending any of the proceeds thereof. No contributions shall be commingled with the candidate's or slated candidates' personal funds or accounts. Contributions received by check, money order, or other written instrument shall be endorsed directly to the campaign committee and shall not be cashed or redeemed by the candidate;

(b) The candidate or slate of candidates shall not make any unreimbursed expenditure ***or disbursement*** for the campaign, except that this paragraph does not preclude a candidate or slate from making an expenditure from personal funds to the designated principal campaign committee, which shall be reported by the committee as a contribution received; and

(c) The waiver shall continue in effect as long as the candidate or slate of candidates complies with the conditions under which it was granted.

(10) No candidate, slate of candidates, campaign committee, political issues committee, or contributing organization shall use or permit the use of contributions or funds solicited or received for the person or in support of or opposition to a public issue which will appear on the ballot to further the candidacy of the person for a different public office, to support or

oppose a different public issue, or to further the candidacy of any other person for public office; except that nothing in this subsection shall be deemed to prohibit a candidate or slate of candidates from using funds in the campaign account to purchase admission tickets for any fundraising event or testimonial affair for another candidate or slate of candidates if the amount of the purchase does not exceed one hundred dollars ($100) per event or affair. Any funds or contributions solicited or received by or on behalf of a candidate, slate of candidates, or any committee, which has been organized in whole or in part to further any candidacy for the same person or to support or oppose the same public issue, shall be deemed to have been solicited or received for the current candidacy or for the election on the public issue if the funds or contributions are solicited or received at any time prior to the regular election for which the candidate, slate of candidates, or public issue is on the ballot. Except as provided in KRS 121A.080(6), any unexpended balance of funds not otherwise obligated for the payment of expenses incurred to further a political issue or the candidacy of a person shall, in whole or in part, at the election of the candidate or committee, escheat to the State Treasury, be returned pro rata to all contributors, or, in the case of a partisan candidate, be transferred to the state or county executive committee of the political party of which the candidate is a member except that a candidate, committee, or an official may retain the funds to further the same public issue or to seek election to the same office or may donate the funds to any charitable, nonprofit, or educational institution recognized under Section 501(c)(3) of the United States Internal Revenue Code of 1986, as amended, and any successor thereto.

(11) (a) Any publisher of newspapers or magazines, owner or lessor of billboards, or any other person, company, corporation, or business organization offering its communications or advertising services for hire to the public who receives funds for the purchase of advertising services or material, shall file with the registry a copy of the material or communication purchased which supports or opposes any slate of candidates or committee; a copy of the receipt for the funds paid; the name and address of each purchaser; and the source of the funds for the purchase if different than the purchaser.

(b) A radio or television station or network that receives funds for the purchase of advertising services or material that supports or opposes a slate of candidates or committee shall file with the registry a copy of the documentation of paid political campaign advertisements that is required to be maintained by the Federal Communications Commission, along with a cover letter from the manager of the station or network or the manager's designee.

(c) All information required to be reported by paragraphs (a) and (b) of this subsection shall be in the hands of the registry or postmarked not later than the thirtieth day following the primary, runoff primary, and regular elections that are held subsequent to the date that the broadcasting or printing of the advertisement occurs.

(d) The provisions of this subsection shall apply only to purchases of advertising services or material to support or oppose a slate of candidates for election to the offices of Governor and Lieutenant Governor.

(e) Notwithstanding KRS 121.990 and KRS 121A.990, penalties for violation of this subsection shall be assessed in accordance with the provisions of KRS 121.140(2).

Section 8. KRS 121.210 is amended to read as follows:

(1) Each candidate may designate one (1) central campaign committee. If so designated, the central campaign committee shall receive all reports made by any other campaign committee authorized in writing by the candidate to accept contributions or make expenditures ***or disbursements*** for the purpose of influencing the nomination for election, or election, of the candidate who designated it as his central campaign committee.

(2) Each statement or report which an authorized committee is required to file with or furnish to the registry shall, if that committee is not a central campaign committee, be furnished instead to the central campaign committee for the candidate on whose behalf that committee is, or is established for the purpose of, accepting contributions or making expenditures ***or disbursements***.

(3) Each central campaign committee shall receive all reports and statements filed with or furnished to it by other authorized committees, and shall consolidate and furnish the reports and statements to the registry, together with its own reports and statements as prescribed by KRS 121.180.

(4) Campaign committees not authorized by, or which have been disavowed by the candidate, shall not include the name of the candidate as part of the committee's name and shall file the reports and statements with the registry as prescribed in KRS 121.180.

Section 9. KRS 121.220 is amended to read as follows:

(1) Each candidate, slate of candidates, and each committee shall, before receiving any contributions or expending ***or disbursing*** any money, designate one (1) primary campaign depository for the purpose of depositing all contributions received and disbursing all expenditures ***or disbursements*** made by the candidate, slate of candidates, or committee. The candidate, slate of candidates, or committee may also designate one (1) secondary depository in each county in which an election is held and in which the candidate, slate of candidates, or committee participates. Deputy campaign treasurers may make expenditures ***or disbursements*** from secondary depositories but only from moneys which first have been deposited in the primary campaign depository. Only a financial institution authorized to transact business in Kentucky may be designated as a campaign depository. The candidate, slate of candidates, or committee shall file the name and

address of each primary and secondary depository so designated at the same time the candidate, slate of candidates, or committee files the name of his or its campaign treasurer.

(2) All funds received by the campaign treasurer or any deputy campaign treasurer of any candidate or committee shall be deposited in a campaign depository in an account designated "Campaign Fund of (name of candidate or committee)." For each deposit, the campaign treasurer or deputy campaign treasurer shall retain a statement showing the name and business address of the permanent committee, the amount contributed, and a description of the major business, social, or political interest represented by the permanent committee for each contribution of any amount made by a permanent committee, and the full name, address, employer of each other contributor and the spouse of the contributor or, if the contributor or spouse of the contributor is self-employed, the name under which he is doing business, and occupation of each contributor of more than one hundred dollars ($100) and the amount contributed. Cash contributions shall be accompanied by the same receipt form. The campaign treasurer or deputy campaign treasurer for a slate of candidates or a slate's campaign committee shall comply with the requirements of KRS 121A.080(6).

Section 10. KRS 121.230 is amended to read as follows:

(1) No state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall use such funds other than in support of the party's candidates in a general election and for the administrative costs of maintaining a political party headquarters.

(2) Each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall deposit such funds in a bank account and shall report the amount of such funds received as a separate entry on its committee report. All expenditures ***or disbursements*** from such remitted funds shall be by check. A copy of each canceled check written on the account of funds remitted under KRS 141.071 to 141.073 shall be retained by the state or local governing authority of the political party for a period of not less than four (4) years.

(3) The designated official of each state or local governing authority of a political party to which funds are remitted under KRS 141.071 to 141.073 shall maintain a current record of the receipts, balance, ***disbursements*** and expenditures of the funds so remitted. In addition, the official shall, within thirty (30) days after each general election, forward to the Registry of Election Finance a report of:

(a) The unexpended and unobligated balance of such remitted funds; and

(b) An itemized listing of each expenditure ***and disbursement*** authorized, incurred or made from such remitted funds, indicating the amount, date, and purpose of each expenditure ***or disbursement***, regardless of the amount, and the name, address, and occupation of each person to whom an expenditure ***or disbursement*** of fifty dollars ($50) or more was made, since the date of the last report.

(4) The reports required by subsection (3) of this section shall be a matter of public record open to inspection by any member of the public immediately upon receipt of the report by the registry.

(5) The Registry of Election Finance may annually audit the accounts and records of receipts***, disbursements,*** and expenditures of funds in the amount of one thousand five hundred dollars ($1,500) or less that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall annually audit the accounts and records of receipts***, disbursements,*** and expenditures of funds in the amount of more than one thousand five hundred dollars ($1,500) that are remitted to each state or local governing authority of a political party under KRS 141.071 to 141.073. The registry shall report the results of each audit conducted to the General Assembly. In the course of such audits, the registry or its authorized agents may ascertain the amount of such remitted funds on deposit in the separate bank account, required by subsection (2) of this section, of the political party audited and may audit the account on the books of the bank. No bank shall be liable for making available to the registry any of the information required under this section.

Section 11. KRS 121.990 is amended to read as follows:

(1) ***Knowing violations of the election laws contained in KRS Chapter 121 shall be subject to the following criminal penalties:***

(a) Any corporation or any officer, agent, attorney, or employee of a corporation, who knowingly violates any of the provisions of KRS 121.025, shall be fined not more than ten thousand dollars ($10,000), and, in the case of individuals, be guilty of a Class D felony.

(b)[~~(2)~~]Any corporation that knowingly violates any of the provisions of KRS 121.035(1) or KRS 121.310(2) shall be fined not more than ten thousand dollars ($10,000) for each offense, and upon conviction its charter shall be forfeited or its authority to do business revoked.

(c)[~~(3)~~]Any person who knowingly violates any of the provisions of KRS 121.035(2), 121.045, 121.055, ***subsection (1) of Section 26 of this Act, or KRS***[~~121.150 to 121.230, 121.310(1),~~] 121.320[~~, or KRS Chapter 121A~~], shall, for each offense, be guilty of a Class D felony.[~~ Violations of KRS 121.150 to 121.230 or KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:~~

~~(a) Failure to make required reports or to file reports at times specified;~~

~~(b) Making any false statement or report;~~

~~(c) Giving money under a fictitious name; or~~

~~(d) Making any communication in violation of KRS 121.190(1).~~

~~(4) The nomination for, or election to, an office of any candidate or slate of candidates who knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, or whose campaign treasurer knowingly violates any provision of KRS 121.150 to 121.220 or KRS Chapter 121A, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits which he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.~~

~~(5) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056 and KRS 121.120 to 121.230 and KRS Chapter 121A.~~

~~(6) The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor upon receipt of a written request from the registry and shall prosecute any violator under this chapter or KRS Chapter 121A. In the event he fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.~~

~~(7) Any officeholder who knowingly violates the provisions of KRS 121.150(12) shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.~~]

(d)[~~(8)~~]Any Governor or any gubernatorial appointee who knowingly appoints, approves the appointment, or participates in the appointing of any person to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(e)[~~(9)~~]Any person who knowingly receives an appointment to any appointive state office or position in violation of KRS 121.056(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant, forfeit all benefits which he would have been entitled to receive, and shall be ineligible to receive an appointment to a state office or position for a period of five (5) years from the date of a final judicial determination of guilt.

(f)[~~(10)~~] Any elected or appointed state officeholder who knowingly awards or participates in the awarding of a contract with the Commonwealth of Kentucky to a person or entity in violation of KRS 121.056(2) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(g)[~~(11)~~] Any person or entity who knowingly receives a contract with the Commonwealth of Kentucky in violation of KRS 121.056(2) shall be guilty of a Class D felony. Upon conviction, the contract shall be canceled, and the person or entity convicted shall be ineligible to receive a contract with the Commonwealth of Kentucky for a period of five (5) years from the date of a final judicial determination of guilt.

(h)[~~(12)~~] Any person who knowingly violates any of the provisions of KRS 121.056(3) shall be guilty of a Class D felony.

[~~(13) Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel pursuant to KRS 121.140 for violation of campaign finance laws, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.~~]

(i)[~~(14)~~] Any elected official who knowingly awards or participates in the awarding of a nonbid contract or whose appointee knowingly awards or participates in the awarding of a nonbid contract in violation of KRS 121.330(1) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(j)[~~(15)~~] Any entity who knowingly receives a nonbid contract with a governing authority in violation of KRS 121.330(2) shall be guilty of a Class D felony. Upon conviction, the nonbid contract shall be canceled, and the entity convicted shall be ineligible to receive a nonbid contract with a governing authority for a period of five (5) years from the date of final judicial determination of guilt.

(k)[~~(16)~~] Any elected official who knowingly awards or participates in awarding of a nonbid contract, lease, or appointment to an office or board or whose appointee knowingly awards or participates in the awarding of a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(3) shall be guilty of a Class D felony and, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits which he would have been entitled to receive had he continued to serve.

(l) *1.*[~~(17) (a)~~] Any fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or

board or any entity in which he has an interest who knowingly receives a nonbid contract or lease in violation of KRS 121.330(4) shall be guilty of a Class D felony;

2.[~~(b)~~] Any immediate family member, employer, or employee of a fundraiser who knowingly receives a nonbid contract, lease, or appointment to an office or board in violation of KRS 121.330(4) shall be guilty of a Class D felony; and

3.[~~(c)~~] Upon conviction, the nonbid contract, lease, or appointment shall be canceled, and the person or entity convicted shall be ineligible to receive a nonbid contract, lease, or appointment with a governing authority for a period of five (5) years from the date of a final judicial determination of guilt.

(m)[~~(18) Any appointed or elected state office holder or any other person who knowingly violates the provisions of KRS 121.120(5) shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final judicial determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.~~

~~(19)~~] Any person who knowingly violates the provisions of KRS 121.065(1) shall be guilty of a Class A misdemeanor.

(2) ***Any person who unintentionally violates the campaign finance laws in subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act shall be subject to the civil penalties under Section 3 of this Act. Any person who knowingly fails to pay a civil penalty, assessed by the registry or a judicial panel under Section 3 of this Act for violation of subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act, shall be disqualified from filing for public office until such penalty is paid or the registry rules that settlement has otherwise been made.***

(3) ***In addition to any civil penalties which may be assessed under Section 3 of this Act, knowing or intentional violations of subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act shall be subject to the following criminal penalties:***

(a) ***Any person who knowingly or intentionally violates Section 4 of this Act, Section 5 of this Act, KRS 121. 170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act, shall, for each offense, be guilty of a Class D felony.***

(b) ***Any appointed or elected state officeholder or any other person who knowingly or intentionally violates subsection (5) of Section 2 of this Act shall be guilty of a Class D felony. In the event a candidate has assumed office, upon a final determination of guilt, his office shall be declared vacant and he shall forfeit all benefits which he would have been entitled to receive had he continued to serve.***

(4) ***Violations of Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act shall include, but shall not be limited to, any of the following acts or omissions:***

(a) ***Failure to make required reports or to file reports at times specified;***

(b) ***Making any false statement or report;***

(c) ***Giving money under a fictitious name; or***

(d) ***Making any communication in violation of KRS 121.190(1).***

(5) ***The nomination for, or election to, an office of any candidate or slate of candidates who intentionally violates any provision of Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, or Section 9 of this Act, or whose campaign treasurer intentionally violates any provision of Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, or Section 9 of this Act, with the knowledge of that candidate or slate of candidates, shall be void, and, upon a final judicial determination of guilt, the office shall be declared vacant and the officeholder shall forfeit all benefits that he would have been entitled to receive had he continued to serve, and the office or candidacy shall be filled as provided by law for the filling of a vacancy. An action to declare a vacancy under this subsection shall only be brought after a final judicial determination of guilt, and may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.***

(6) ***The Attorney General, Commonwealth's attorney, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS 121.056, Section 2 of this Act, KRS 121.130, KRS 121.135, Section 3 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, or Section 10 of this Act.***

(7) ***The Commonwealth's attorney or county attorney for the county in which the candidate or slated candidates reside shall be the chief prosecutor in any criminal prosecution of the election laws, and, only after receipt of a written***

referral from the registry, shall be the chief prosecutor in any criminal prosecution of the campaign finance laws, and shall prosecute any violator under this chapter. In the event the Commonwealth's attorney or county attorney fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.

(8) Any officeholder who knowingly violates the provisions of subsection (12) of Section 4 of this Act shall, upon a final judicial determination of guilt, have his office declared vacant and shall forfeit all benefits that he would have been entitled to receive had he continued to serve.

Section 12. KRS 121A.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Registry" means the Kentucky Registry of Election Finance;

(2) "Fund" means the election campaign fund;

(3) "Transfer" means a transfer from the fund to a ***participating***~~[qualifying]~~ slate~~[of candidates]~~;

(4) "Qualifying contribution" means a contribution made to a slate of candidates for Governor and Lieutenant Governor by a natural person, permanent committee, executive committee of a political party, or contributing organization that is authorized to contribute to candidates that is paid by personal check, cashier's check, or money order. A qualifying contribution shall not include a cash contribution, loan, pledge, nonmonetary contribution, or contribution by a slate of candidates in excess of the contribution limits of KRS 121A.050;

(5) "***Participating***~~[Qualifying]~~ slate~~[of candidates]~~" means any slate of candidates~~[of a political party or any independent nominees for Governor and Lieutenant Governor]~~ whose names are qualified to appear jointly on a primary or runoff primary election ***or a regular election*** ballot ***and that has filed a valid statement of intent to accept a transfer from the election campaign fund and abide by the expenditure limit under this chapter***~~[, or candidates who have filed a notification and declaration pursuant to KRS 118.127 who are authorized by this chapter to receive contributions and make expenditures jointly for the regular election, and one (1) that has otherwise qualified under this chapter to receive a transfer from the election campaign fund, including having raised the minimum threshold qualifying amount]~~. "***Participating***~~[Qualifying]~~ slate~~[of candidates]~~," when applied to a runoff primary, means a slate of candidates for Governor and Lieutenant Governor that has been certified by the Secretary of State as one that has received the highest or next highest number of votes for its party's nomination in a primary that filed a statement of intent to accept a transfer from the ***election campaign*** fund and abide by the expenditure limit for the primary which was not rescinded in a timely manner;

(6) "Slate of candidates" means any two (2) persons who have filed a joint notification and declaration pursuant to KRS 118.127, received contributions or made expenditures ***or disbursements***, appointed a campaign treasurer, designated a campaign depository, or given their consent for any other individual to receive contributions or make expenditures ***or disbursements***, with a view to bringing about their nomination for election to the offices of Governor and Lieutenant Governor. Unless the context requires otherwise, any provision of law that applies to a candidate shall also apply to a slate of candidates;

(7) "Candidate campaign account" means the bank account required by KRS 121.160 to be established, which for a slate of candidates~~[for Governor and Lieutenant Governor]~~ shall be in a financial institution authorized to do business in Kentucky which is insured by the Federal Deposit Insurance Corporation and shall be for the sole purpose of receiving transfers from the fund and contributions or other moneys raised from personal resources;

(8) "Campaign expenditures" means lawful expenditures from a candidate campaign account on behalf of a slate of candidates to further its nomination or election~~[to the offices of Governor and Lieutenant Governor]~~ authorized by the campaign committee treasurer or other authorized individual;

(9) "Committee" includes the following:

(a) "Campaign committee" which means one (1) or more persons who receive contributions and make expenditures to support or oppose one (1) or more specific slate of candidates~~[for nomination or election to the offices of Governor and Lieutenant Governor]~~;

(b) "Political issues committee," which means three (3) or more persons joining together to advocate or oppose a constitutional amendment or public question which will appear on the ballot if that committee receives or expends money in excess of one thousand dollars ($1,000);

(c) "Permanent committee," which means a group of individuals, including an association, committee, or organization, other than a campaign committee***, independent expenditures committee,*** or party executive committee, which is established as, or intended to be, a permanent organization having as a primary purpose expressly advocating the election or defeat of one (1) or more clearly identified candidates, slates of candidates, or political parties and which functions on a regular basis throughout the year;

(d) An executive committee of a political party;~~[and]~~

(e) "Exploratory committee," which means a committee formed by one (1) or more persons which is registered pursuant to KRS 121.170 to accept contributions and make expenditures for the purpose of determining the feasibility of forming a slate of candidates[~~ for Governor and Lieutenant Governor~~] or of determining the composition of a slate of candidates[~~ for Governor and Lieutenant Governor~~]; ***and***

(f) "Independent expenditures committee," which means two (2) or more persons, including an association, committee, or other organization other than a campaign committee, political issues committee, inaugural committee, party executive committee, or permanent committee, that make independent expenditures in excess of one thousand dollars ($1,000) or receive in excess of one thousand dollars ($1,000) with which to make independent expenditures as defined in subsection (13) of this section;

(10) "Contributing organization" means a group which merely contributes to candidates, campaign committees, or executive committees from time to time from funds derived solely from within the group, and which does not solicit or receive funds from sources outside the group itself. However, any contribution made by a contributing organization in excess of one hundred dollars ($100) shall be reported to the registry;

(11) (a) "Contribution" means any[~~:~~

~~1.~~] payment, distribution, loan, deposit, or gift of money or other thing of value, to a slate of candidates, its agent, a committee, or contributing organization. ***"Contribution"***[~~As used in this subsection, "loan"~~] shall include***:***

1. A guarantee, endorsement, or other form of security where the risk of nonpayment rests with the surety, guarantor, or endorser, as well as with a committee, contributing organization, slate of candidates, or other primary obligor. No individual shall become liable as surety, endorser, or guarantor for any sum which, when combined with all other contributions the individual makes to the slate of candidates, its agent, the committee, or the contributing organization, exceeds the contribution limits provided in KRS 121.150;

2. Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization of compensation for the personal services of another individual which are rendered to a slate of candidates, committee, or contributing organization;

3. ***Written contract, written promise, or written agreement to make a payment to a slate of candidates, its authorized treasurer, a committee, or contributing organization for any purpose;***[~~Goods, advertising, or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are furnished to a slate of candidates, committee, or contributing organization without charge, or at a rate which is less than the rate normally charged for such goods or services, if the person furnishing the goods, advertising, or services paid another person for their provision; or~~]

4. ***Facilities, office space, or equipment supplied by any person to a slate of candidates or committee without charge or at reduced charges, except gratuitous space for meeting purposes that is made available regularly and on an equal basis for similar purposes and on the same condition to the public including another slate of candidates or committee;***[~~Payment by any individual other than the slate of candidates, its authorized treasurer, a committee, or contributing organization for any goods or services with a value of more than one hundred dollars ($100) in the aggregate in any one (1) election which are utilized by a slate of candidates, committee, or contributing organization, if the person making the payment paid another person for their utilization.~~]

5. Waiver or advance of a deposit for utilities service, including but not limited to telephone service; or

6. Coordinated expenditure;

(b) Notwithstanding the foregoing meanings of "contribution," it shall not be construed to include:

1. Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, ***party,*** or contributing organization;

2.[~~ Expenditures by an individual other than a candidate in connection with an event held in the individual's home when the individual expends less than three hundred dollars ($300);~~

~~3.~~] A loan of money by ***a state bank, federally chartered depository institution, or a depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, other than an overdraft made with respect to a checking or savings account, that is***[~~any financial institution doing business in Kentucky~~] made in accordance with applicable banking laws and regulations and in the ordinary course of business***. In order for this exemption to apply, a loan shall be evidenced by a written instrument, shall be subject to a due date or amortization schedule, and shall bear the usual and customary interest rate of the lending institution***;[~~ or~~]

3.[~~4.~~] An[~~ independent expenditure by any individual or permanent committee~~] ***expenditure that is not a coordinated expenditure***;

4. Any unreimbursed payment for travel expenses made by a person who on his own behalf volunteers his

personal services to any slate of candidates;

5. To the extent that the cumulative value of the activities of this subparagraph do not exceed five hundred dollars ($500) per contributor with respect to any slate of candidates, a contributor may obtain or provide, in the course of volunteering personal services to any slate of candidates, slate's committee, or political party:

a. The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes; and

b. The cost of invitations, food, or beverages, voluntarily provided by any person to a slated candidate, slated candidate's committee, or political party;

6. Payment by a political party of the costs incurred by the party of preparation, display, mailing, or other distribution of any campaign materials, including advertisements, sample ballots, pins, bumper stickers, handbills, brochures, posters, party tabloids, or yard signs, as long as the campaign materials contain the names of at least the names of a gubernatorial slate and at least two (2) other candidates of the same party;

7. Legal or accounting services rendered to or on behalf of a slate's committee or slate of candidates, as long as the services are:

a. Voluntary or paid for solely by the regular employer of the individual rendering the services; and

b. Solely for the purpose of compliance with KRS Chapter 121 or 121A;

8. Voter registration and get-out-the-vote campaigns by any nonprofit corporation, organization, or association, excluding political parties;

9. Interest earned on any deposits made to a slate of candidates' campaign account, regardless of the source of the funds;

10. Any communication made by a nonprofit corporation, organization, or association to its members, owners, executive or administrative personnel, or their families;

11. The provision of facilities, equipment, technical and managerial support, or broadcast time by a community antenna television company for community access programming;

12. An offer or tender of a contribution that is expressly and unconditionally rejected and:

a. Returned to the donor within ten (10) business days after receipt, if the donor can be identified; or

b. Transmitted to the election campaign fund established by KRS 121A.020 within ten (10) business days, if the donor cannot be identified;

13. Documents, in printed or electronic form, including party platforms, single copies of issue papers, information relating to the requirements of KRS Chapter 121 or 121A, or lists of registered voters, that are created or maintained by a political party for the general purpose of party building and provided to a slate of candidates that is a member of that party; or

14. A news story, commentary, or editorial distributed through the facilities of any telecommunications system, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by a slate of candidates, candidate's committee, permanent committee, or political party;

(12) "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware[~~ or should have been aware~~] that his conduct is of that nature or that the circumstance exists;[~~ and~~]

(13) "Independent expenditure" means ***any***[~~the~~] expenditure ***that is not a coordinated expenditure and that is made***[~~of money or other things of value~~] for a communication which expressly advocates the election or defeat of a clearly identified candidate or slate of candidates ***by a person or committee other than a***[~~, and which is made without any coordination, consultation, or cooperation with any candidate, slate of candidates, campaign committee, or any authorized person acting on behalf of any of them, and which is not made in concert with, or at the request or suggestion of any~~] candidate, slate of candidates, campaign committee, or any authorized ***agent***[~~person~~] acting on behalf of any of them*;*

(14) "Political party" is an affiliation or organization of electors representing a political policy and having a constituted authority for its government and regulation, and whose candidate received at least twenty percent (20%) of the total vote cast at the last preceding election at which presidential electors were voted for;

(15) "Participating political party" means any statewide political party authorized by KRS Chapter 121A to receive contributions and make expenditures for the regular election campaign at which a slate of candidates is selected, that has executed a valid statement of intent to receive a transfer from the election campaign fund;

(16) "Qualifying party contribution" means a contribution to a political party by a person, permanent committee, or contributing organization that is authorized to contribute to political parties, that is received by the political party on or after the filing deadline for the primary election at which slates of candidates are chosen and on or before the date of

the regular election at which a slate of candidates is elected;

(17) "File" or "filed" means submitted to and received in the offices of the registry on or before the day or time specified in the applicable statute or administrative regulation, and may include hand delivery, United States mail, private courier or delivery service, facsimile, or electronic filing, and if a document is filed by facsimile or electronic filing, a copy of the document bearing an original signature shall be filed with the registry within three (3) business days thereafter;

(18) "Expenditure" means any:

(a) Payment, advance, conveyance, deposit, donation, or contribution of money or anything of value for the purpose of supporting or opposing the nomination or election of any slate of candidates or for the support of any committee that in turn supports or opposes any slate of candidates or for the purpose of paying a previously incurred campaign debt or obligation of a member of a slate of candidates or the debts or obligations of a committee;

(b) Payment of, or an agreement or promise to pay, money or anything of value, including a candidate's personal monies, for the purchase of goods, services, property, facilities, or anything of value for the purpose of supporting or opposing the nomination or election of any slate of candidates or for the purpose of paying current or previously incurred campaign debts or obligations of a campaign or of any committee;

(c) Payment by any person other than the slate of candidates, its authorized treasurer, a committee, or a contributing organization, of compensation for the personal services of another person, that are rendered to a slate of candidates, committee, or contributing organization, or for inauguration activities;

(d) Purchase of tickets, goods, services, or political merchandise in connection with any testimonial affair or fundraising event of or for candidates or committees, or the purchase of advertising in a brochure, booklet, program, or pamphlet of a candidate, slate of candidates, or committee;

(e) Transfer of funds by one (1) committee to another committee; or

(f) Waiver or advance of a deposit for utilities service, including but not limited to telephone service.

For purposes of this subsection, an expenditure of anything of value shall be deemed to have a money value equivalent to the fair market value.

(19) Notwithstanding the foregoing meanings of "expenditure", it shall not be construed to include:

(a) Services provided without compensation by individuals volunteering a portion or all of their time on behalf of a slate of candidates, committee, or contributing organization;

(b) A loan of money by a state bank, a federally chartered depository institution, or a depository institution, the deposits or accounts of which are insured by the Federal Deposit Insurance Corporation or the National Credit Union Administration, other than an overdraft made in accordance with applicable law and in the ordinary course of business. In order for this exemption to apply, a loan shall be evidenced by a written instrument, shall be subject to a due date or amortization schedule, and shall bear the usual and customary interest rate of the lending institution;

(c) Any unreimbursed payment for travel expenses made by an individual who on his own behalf volunteers his personal services to any slate of candidates to the extent the cumulative value of the services does not exceed two hundred dollars ($200) with respect to any single election;

(d) To the extent that the cumulative value of the activities of this paragraph do not exceed five hundred dollars ($500) per individual with respect to any slate of candidates, a contributor may obtain or provide, in the course of volunteering personal services to any slate of candidates, slate's committee, or political party:

1. The use of real or personal property, including a church or community room used on a regular basis by members of a community for noncommercial purposes; and

2. The cost of invitations, food, or beverages, voluntarily provided by any person to a slate's committee or political party;

(e) Payment by a political party committee of the costs incurred by the party of preparation, display, mailing, or other distribution with respect to any campaign materials, including advertisements, sample ballots, pins, bumper stickers, handbills, brochures, posters, party tabloids, and yard signs, containing the names of the slate along with at least two (2) other candidates of the same party;

(f) Legal or accounting services rendered to or on behalf of a slate's committee or slate of candidates, as long as the services are:

1. Voluntary or paid for solely by the regular employer of the individual rendering the services; and

2. Solely for the purpose of compliance with KRS Chapter 121 or 121A;

(g) Voter registration and get-out-the-vote campaigns by any nonprofit corporation, organization, or association, excluding political parties;

(h) Any communication made by a nonprofit corporation, organization, or association to its members, owners,

executive or administrative personnel, or their families;

(i) Documents in printed or electronic form, including party platforms, single copies of issue papers, information pertaining to the requirements of KRS Chapter 121 or 121A, or lists of registered voters, created or maintained by a political party for the general purpose of party building and provided to a candidate or member of a slate of candidates, who is a member of that party;

(j) A news story, commentary, or editorial distributed through the facilities of any telecommunications system, newspaper, magazine, or other periodical publication, unless the facilities are owned or controlled by a slate of candidates, candidate's committee, permanent committee, or political party;

(k) Payment for a debate or other forum sponsored by a political party or affiliated committee in which a majority of the candidates for that party's nomination were invited to participate in equal numbers;

(l) Payment for a debate or other forum in which a proponent of a ballot measure and an opponent of a ballot measure were invited to participate in equal numbers; or

(m) Payment made by a bona fide service, social, business, trade, union, or professional organization or group for reasonable overhead expenses associated with the organization's regularly scheduled meeting at which a candidate or proponent or opponent of a ballot measure speaks, if the organization pays no additional costs in connection with the speaker's attendance;

(20) "Coordinated expenditure" means any expenditure as defined in subsection (18) of this section by any person or entity, other than a campaign committee, that is made:

(a) 1. With the intent to avoid the contribution limits set out in Section 4 of this Act or Section 24 of this Act;

2. With the intent to avoid the spending limits set out in subsection (3) of Section 25 of this Act or Section 15 of this Act; or

3. With the intent to avoid the reporting requirements set out in Section 7 of this Act; and

(b) 1. Pursuant to the request of a candidate, slate of candidates or an authorized agent of a candidate, slate of candidates, or campaign committee; or

2. For a communication that expressly advocates the election or defeat of a clearly identified candidate and the content, timing, location, mode, intended audience, or volume of that communication is the result of prior negotiation with a candidate, slate of candidates, or an authorized agent of any candidate, slate of candidates, or campaign committee;

(21) "Personal moneys" means any of the following, with respect to a member of a slate of candidates:

(a) Assets to which the candidate has a legal right of access or control at the time he becomes a candidate, and with respect to which the candidate has either legal title or an equitable interest;

(b) Salary or other earned income from bona fide employment of the candidate;

(c) Dividends or proceeds from the sale of stocks or investments of the candidate;

(d) Bequests to the candidate;

(e) Income to the candidate from trusts established before candidacy;

(f) Income to the candidate from trusts established by bequest after candidacy, of which the candidate is a beneficiary;

(g) Personal gifts to the candidate of the kind that have been customarily received prior to the candidacy;

(h) Proceeds received by the candidate from lotteries or other legal games of chance;

(i) Proceeds obtained by the candidate that are not contributions and for which the collateral or security interest is covered by paragraphs (a) to (g) of this subsection; or

(j) Family contributions, including any contribution provided to a candidate's campaign committee by a parent, grandparent, spouse, child, or sibling of the candidate, or a spouse or parent of any of these persons;

(22) "Authorized agent" means any individual who has the actual oral or written authority of a slate of candidates, treasurer of a campaign committee, chair of any political party or treasurer of any political party's special committee to request that an expenditure or contribution be made on behalf of the principal, or to negotiate the content, timing, location, mode, intended audience, or volume of any expenditure or contribution on behalf of the principal;

(23) "Clearly identified" means:

(a) The name of the candidate involved appears;

(b) A photograph or drawing of the candidate appears; or

(c) The identity of the candidate is apparent by unambiguous reference;

(24) "Expressly advocates" means a communication containing an explicit directive, either in words or by effect, that advocates the election or defeat of a candidate, including but not limited to a communication containing the name of

the candidate, or expressions such as "vote for", "elect", "support", "campaign for", "contribute to", "cast your ballot for", "vote against", "defeat", or "reject";

(25) "Cash" means currency, coin, United States postage stamps, or any negotiable instrument that can be transferred from one (1) person to the other without the signature or endorsement of the transferor;

(26) "Reserve account" means a bank account, separate and distinct from the candidate campaign account, maintained by a participating slate that has received transfers from the fund, for the purpose of retaining qualifying contributions in excess of the maximum threshold qualifying amount in accordance with the provisions of Section 17 of this Act;

(27) "Election laws" means KRS Chapters 116, 117, 118, 118A, 118B, 119, and 120, and KRS 121.025, 121.035, 121.045, 121.055, 121.056, 121.065, Section 26 of this Act, KRS 121.320, and KRS 121.330, but does not mean subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, Section 10 of this Act, nor any provision of KRS Chapter 121A;

(28) "Campaign finance laws" means all those provisions of KRS Chapter 121A and subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, and Section 10 of this Act; and

(29) "Disbursement" means any payment, advance, or conveyance of anything of value from any committee or any account authorized or required to be maintained under KRS Chapter 121 or 121A, and shall include, but not be limited to, an expenditure as defined in subsection (18) of this section.

SECTION 13. A NEW SECTION OF KRS CHAPTER 121A IS CREATED TO READ AS FOLLOWS:

(1) Any political party that executes a statement of intent to accept a transfer from the election campaign fund as provided in Section 16 of this Act shall create a special committee as provided in this section.

(2) The special committee shall receive and monitor qualifying party contributions and election campaign fund transfers, disburse campaign expenditures, and comply with the requirements of KRS Chapters 121 and 121A.

(3) The special committee shall consist of at least a chairperson and a treasurer.

(4) The chairperson of the special committee shall file a statement of intent with the registry, concurrently with the participating party's statement under Section 16 of this Act, identifying the name of the special committee and all members of the special committee, and designating its officers, including its chairperson and treasurer.

(5) All qualifying party contributions and all transfers received from the fund by a political party shall be deposited to, and all campaign expenditures shall be made from, a separate bank account maintained by the special committee. The special committee's treasurer shall be authorized to withdraw funds from the committee account. The chairperson and treasurer shall share responsibility for the committee account.

(6) No individual authorized to make withdrawals from a committee account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. The invoices shall be preserved by the political party for six (6) years and made available for reasonable inspection and auditing by employees of the registry.

Section 14. KRS 121A.020 is amended to read as follows:

(1) There is established a special account of the general fund in the State Treasury to be known as the election campaign fund from which funds may be paid only upon warrants issued by the registry.

(2) The registry shall distribute transfers for the matching of qualifying contributions to a ***participating***[~~qualifying~~] slate ***or a participating political party***[~~of candidates for Governor and Lieutenant Governor~~] as provided in KRS 121A.080. The transfers shall be paid from moneys derived from appropriations made to the fund for that purpose and moneys transferred to the fund pursuant to KRS 121A.080(6), 118.255(3), and 121A.015(5).

(3) The registry shall report to the General Assembly within three (3) months following an election for Governor and Lieutenant Governor the total amount of transfers from the fund paid to each ***participating***[~~qualifying~~] slate[~~ of candidates~~] for qualifying contributions ***and each participating political party***.

(4) The registry shall preserve all receipted bills and accounts required to be kept by this chapter for a period of six (6) years.

(5) In lieu of the reporting provisions of KRS 121.180(3)(b)1., 2., and 3., all ***slates of candidates,*** slated candidates' campaign committees, including those of slates of candidates rejecting expenditure limitations,[~~ and~~] fundraisers for slated candidates who are registered pursuant to KRS 121.170(2), ***and special committees of all political parties*** shall report all contributions,[~~ and~~] expenditures***, and disbursements*** to the registry ***as follows:***

  (a) An initial report shall be filed with the registry not later than five (5) days after the last day of the calendar month following the formation and registration of the committee or registration of the fundraiser***;***[~~ and~~]

  (b) After the filing of the initial report[~~ not later than five (5) days after the last day of each calendar month~~

[~~thereafter~~] until the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected***, reports shall be filed not later than five (5) days after the last day of each calendar month;***

(c) During the fifty-six (56) days immediately preceding the primary and regular election of a year in which a Governor and Lieutenant Governor are elected,[~~ when~~] reports shall be filed not later than three (3) days after the fifty-sixth, forty-second, twenty-eighth, and fourteenth days preceding the primary or regular election***; and***

(d) In addition to all the other reporting requirements of KRS Chapters 121 and 121A, any candidate, slate of candidates, campaign committee, or fundraiser subject to this section shall file a report of any of the following transactions within twenty-four (24) hours after the transaction is made, if made during the twenty-eight (28) days immediately preceding a primary or regular election, or if made during the fourteen (14) days immediately preceding a runoff primary:

1. Any contribution within the meaning of Section 12 of this Act received from the personal monies of a member of the slate of candidates;

2. Any deposit of funds to the slate's campaign account that may be attributed to the personal monies of a member of the slate of candidates, and, for purposes of this subparagraph, a deposit occurs on the same day that the funds are delivered to the bank where the slate's candidate campaign account is maintained, regardless of the time of day the deposit is made; or

3. Any expenditure or disbursement authorized, incurred, committed to, reserved for, or made by an authorized agent of any slate of candidates for the purpose of advertising, including the reservation or time or space for the purchase of advertising, from any newspaper, magazine, owner or lessor of billboards, radio or television station or network, direct mail vendor, or other business organization offering communications or advertising services for hire.

(e) All contributions received by a slate of candidates as of the last day of each reporting period shall be included on the report for that period regardless of whether the contributions have been deposited in the slate's campaign account. Slated candidates participating in a runoff primary and registered fundraisers for slated candidates in a runoff primary shall report all contributions and expenditures to the registry fourteen (14) days before the runoff primary.

(f) In lieu of the reporting requirements of KRS 121.180(4), all slated candidates and registered fundraisers for slated candidates shall make a report to the registry not later than thirty (30) days following any election in which they participate and shall submit additional reports ***not later than five (5) days after the last day of each calendar month, except reporting for a period of less than ten (10) days at the end of a calendar month not included in the prior reporting period shall be added to the report for the subsequent calendar month. Additional reporting in this manner shall continue***[~~every thirty (30) days thereafter~~] until all financial obligations of the slate ***of candidates*** have been fulfilled and the candidate campaign account has been closed[~~ in lieu of the reporting provisions of KRS 121.180(4)~~].

(g) All reports required by this subsection shall include all contributions ***received***[~~deposited into~~] and all expenditures paid from the candidate campaign account as of the close of business on the last day of the reporting period.

(6) After each primary, each runoff primary, and each regular election in a year in which a Governor and Lieutenant Governor are elected, the registry shall conduct a thorough examination and audit of the contributions to and campaign expenditures by any campaign committee of each slate of candidates ***and each special committee of a participating political party*** and issue a separate report on each campaign committee ***and each special committee of a participating political party***.

(7) The registry shall promulgate administrative regulations and official forms and perform other duties necessary to implement the provisions of this chapter.

Section 15. KRS 121A.030 is amended to read as follows:

(1) ***(a)*** A ***participating***[~~qualifying~~] slate[~~ of candidates for Governor and Lieutenant Governor~~] that receives transfers from the fund may make campaign expenditures which, in the aggregate, including the expenditure of transfers from the fund, shall not exceed one million eight hundred thousand dollars ($1,800,000) in connection with a primary election campaign and one million eight hundred thousand dollars ($1,800,000) in connection with a regular election campaign, subject to the provisions of KRS 121A.080(4) and (5), and three hundred thousand dollars ($300,000) in connection with a runoff primary campaign.

(b) In a year in which a slate of candidates is elected, a participating political party that receives transfers from the fund shall not make expenditures, including the expenditures of transfers from the fund, that, in the aggregate, exceed two million dollars ($2,000,000) plus a prorated average overhead cost of the political party during the period commencing the day after the primary election through and including the day of the regular election. The prorated average overhead cost of the political party shall be calculated as the total political party disbursements for the two (2) calendar years preceding the year of the election of a slate of candidates, minus expenditures during those two (2) calendar years for any purchases of advertising services or materials

supporting or opposing a slate or committee, multiplied by twenty-five percent (25%).

(2) The expenditure limit amounts established in subsection (1) of this section shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(3) No ***participating***~~[qualifying]~~ slate ***or participating political party***~~[of candidates for Governor and Lieutenant Governor]~~ that receives a transfer from the fund or that is otherwise subject to expenditure limitations shall exceed the expenditure limitations of subsection (1) of this section~~[through an additional reported or unreported expenditure by any person, committee, or contributing organization which does not qualify as an independent expenditure]~~.

(4) A slate of candidates~~[for Governor and Lieutenant Governor]~~ that has filed a statement of intent to accept transfers from the fund and abide by the maximum expenditure limit that was not rescinded pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election. A slate of candidates that has filed a statement of intent to reject transfers from the fund and not abide by the maximum expenditure limit or one that has rescinded a statement of intent to accept transfers from the fund pursuant to KRS 121A.040(4) may receive contributions from permanent committees which, in the aggregate, shall not exceed twenty-five percent (25%) of the qualifying contributions received by the slate of candidates in any one (1) election up to a maximum of one hundred fifty thousand dollars ($150,000) in any one (1) election.

(5) No slate of candidates~~[for Governor and Lieutenant Governor]~~ shall~~[knowingly]~~ accept any other campaign contribution during the twenty-eight (28) days immediately preceding a primary or regular election and during the fourteen (14) days immediately preceding a runoff primary except:

(a) A ***participating***~~[qualifying]~~ slate~~[of candidates]~~ that has elected to become eligible for fund transfers or who may in the future elect to become eligible for fund transfers shall be released from expenditure limitations following a certification by the registry pursuant to KRS 121A.080(4) or (5) that a slate of candidates that has not elected to become eligible for fund transfers has received contributions or made expenditures in excess of the expenditure limits provided in subsection (1) of this section; or

(b) The matching ratio of fund transfers established in KRS 121A.060(3)(c) has been reduced by the registry pursuant to KRS 121A.080(3). If the registry reduces the matching ratio of fund transfers, a ***participating***~~[qualifying]~~ slate~~[of candidates]~~ that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions which, when added to the maximum threshold qualifying amount established in KRS 121A.060(1) and the amount equal to the reduced matching ratio of fund transfers shall not exceed the expenditure limit established in subsection (1) of this section, unless a ***participating***~~[qualifying]~~ slate~~[of candidates]~~ has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5).

Section 16. KRS 121A.040 is amended to read as follows:

(1) Each slate of candidates~~[for Governor and Lieutenant Governor]~~ shall file with the registry a statement of intent to accept or to reject a transfer from the election campaign fund. The statement shall be filed not later than the deadline for filing nomination papers.

(2) A ***participating***~~[qualifying]~~ slate~~[of candidates]~~ that intends to accept a transfer shall swear that the slate and the slate's authorized agents have complied with and will continue to comply with applicable contribution and expenditure limits.

(3) A slate of candidates shall designate in the statement of intent whether the slate will accept or reject a transfer in either the primary or the regular election. A ***participating***~~[qualifying]~~ slate~~[of candidates]~~ that receives a transfer from the fund in either the primary or regular election shall be bound by the contribution and expenditure limits of KRS 121A.030 and 121A.050 throughout the campaign. A slate of candidates that rejects expenditure limitations in a primary shall not be eligible to receive a transfer from the fund in a runoff primary or the regular election. A slate of candidates that accepts expenditure limitations in a primary shall not reject expenditure limitations in a regular election.

(4) (a) Prior to the payment by the registry of either a primary election transfer or a regular election transfer, a slate of candidates may rescind its statement of acceptance by filing a notice rescinding its acceptance not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

(b) A slate of candidates may rescind its statement of rejection if it has not received contributions or made expenditures in excess of the expenditure limit established by KRS 121A.030~~[(1)]~~ by filing a notice rescinding its rejection not later than 4 p.m., prevailing time, not later than ten (10) calendar days after the date for filing nomination papers.

(5) The executive committee of each political party shall file with the registry a statement of intent to accept or reject a transfer from the election campaign fund. The statement shall be filed not later than thirty (30) days after the primary election in which slates of candidates are selected for nomination. A participating political party that intends to accept a transfer shall swear that the party and the party's authorized agents have complied with and will continue to comply with applicable expenditure limits for the next regular election in which slates of candidates will be elected.

(6) In order for either a participating political party or its participating slate to be eligible for transfers from the fund in the regular election, both the participating political party and its participating slate must have executed statements of intent to accept transfers from the fund, as provided in this section. If the participating slate has executed a statement of intent to accept a transfer from the fund, and the slate's political party executes a statement of intent to reject a transfer from the fund, then the slate shall not be eligible for any transfers from the fund in the regular election, and the slate shall be treated for purposes of the regular election as if it had likewise executed a statement of intent to reject a transfer from the fund.

Section 17. KRS 121A.060 is amended to read as follows:

(1) ***(a)*** The minimum threshold qualifying amount for a slate of candidates~~[for Governor and Lieutenant Governor]~~ in a primary or regular election that elects to be eligible to receive a transfer from the fund shall be three hundred thousand dollars ($300,000) in qualifying contributions and the maximum threshold qualifying amount for a primary or regular election shall be six hundred thousand dollars ($600,000) in qualifying contributions for any one (1) election. Not more than fifty percent (50%) of a threshold qualifying amount shall be received from residents of the same congressional district.~~[No qualifying slate of candidates shall accept qualifying contributions in any one (1) election which in the aggregate exceed the maximum threshold qualifying amount unless a qualifying slate of candidates has been released from expenditure limitations pursuant to KRS 121A.080(4) or (5).]~~

(b) A ***participating***~~[qualifying]~~ slate ***that has received a transfer from the fund that***~~[which]~~ discovers that it has received qualifying contributions in excess of the maximum threshold qualifying amount shall, without penalty, ***make a binding election within three (3) days after the contributions are received to either:***

1. Dispose of qualifying contributions received after the maximum threshold qualifying amount was reached by returning the excess contributions to the contributors***;***

2. Retain the contributions in excess of the maximum threshold amount up to the expenditure limit provided in subsection (1) of Section 15 of this Act; or

3. Place the contributions in a reserve account.

(c) If the participating slate elects to return~~[The]~~ excess contributions~~[returned]~~ to the contributors ***under subparagraph 1. of paragraph (b) of this subsection, the contributions*** shall not be considered as qualifying contributions and shall not be matched by transfers from the fund.

(d) If the participating slate elects to retain the contributions under subparagraph 2. of paragraph (b) of this subsection, any matching funds to which it is entitled from the campaign election fund shall be reduced, dollar for dollar, by the amount of retained contributions that exceeds the maximum threshold amount.

(e) If the participating slate elects to place the contribution in a reserve account under subparagraph 3. of paragraph (b) of this subsection, then those funds shall remain in the reserve account until the registry determines under Section 19 of this Act that a nonparticipating slate has exceeded the contribution or expenditure limit under subsection (1) of Section 15 of this Act, at which time the participating slate may transfer the reserve account funds to the campaign account, and the funds shall then become qualifying contributions for purposes of receiving matching transfers from the election campaign fund. If the registry makes no determination under Section 19 of this Act that a nonparticipating slate has exceeded the contribution or expenditure limit under subsection (1) of Section 15 of this Act, the participating slate shall return all excess contributions in the reserve account to the contributors, except as provided in paragraph (f) of this subsection.

(f) If a participating slate wins the primary nomination and has a reserve account balance at the end of the primary election, the slate may transfer funds from the reserve account to the campaign account, up to the maximum qualifying threshold contribution limit, and those funds may then become qualifying contributions for purposes of receiving transfers from the election campaign fund for the regular election. Any remaining balance shall be retained in the reserve account under paragraph (e) of this subsection.

(g) After the expenditure limit amounts are adjusted under KRS 121A.030(1) in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The adjusted maximum threshold qualifying amount shall be one-third (1/3) of the adjusted expenditure limit amount for a primary or regular election campaign, and the adjusted minimum threshold qualifying amount shall be one-half (1/2) of the adjusted maximum threshold qualifying amount. The registry shall make the adjustments in the threshold qualifying amounts in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election.

(h) The minimum threshold qualifying amount for a participating political party in a regular election to be eligible to receive a transfer from the fund shall be two hundred ten thousand dollars ($210,000) in qualifying party contributions. A participating political party shall be eligible for transfers from the fund on a one (1) for one (1) matching ratio of qualifying party contributions to fund transfer dollars, not to exceed one million dollars ($1,000,000). After the expenditure limit amounts are adjusted under subsection (1)(b) of Section 15 of this Act

in accordance with the consumer price index for all urban workers, the threshold qualifying amounts shall be increased or decreased accordingly. The registry shall make the adjustment in the threshold qualifying amount in a year in which a slate of candidates is elected, not later than the filing deadline for the primary election. Any qualifying party contributions and all fund transfers to a participating political party shall be received by its special committee and deposited in the special committee's account as provided in Section 13 of this Act. Any contribution in excess of one million dollars ($1,000,000) made to a participating political party from the date of the filing deadline for the primary election in which a slate of candidates is chosen through the date of the regular election for slates of candidates in the same calendar year may be retained by the party, but shall not be a qualifying party contribution and shall not be deposited in the special committee's account.

(2) ***(a)*** In order to become a ***participating***[~~qualifying~~] slate[~~ of candidates~~] for the purpose of receiving a transfer from the fund in a primary or regular election, or both, a slate of candidates shall request certification from the registry in a form and in the manner which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(b) In order to become a participating political party for the purpose of receiving a transfer from the fund in a regular election, a political party shall request certification from the registry in a form and in the manner in which the registry shall prescribe by administrative regulations promulgated in accordance with this chapter.

(3) The registry shall immediately review the request of a ***participating*** slate of candidates for certification to receive a transfer from the fund. The request for certification shall include:

(a) A ***copy of the participating slate's*** statement of intent accepting maximum expenditure limitations***, and, if the request for certification is for the regular election, the request shall also include a copy of the statement of intent executed by the slate's political party to accept maximum expenditure limits***;

(b) A copy of the ***participating*** slate's nomination papers;

(c) The financial reports filed by or on behalf of the ***participating*** slate of candidates as of the date of the request for certification which indicate that the slate of candidates has raised a threshold qualifying amount in individual qualifying contributions for a transfer from the fund at a two (2) for one (1) matching ratio; and

(d) Any other information reasonably necessary that is required by the registry.

(4) ***The registry shall immediately review the request of a participating political party for certification to receive a transfer from the fund. The request for certification shall include:***

(a) A copy of the party's statement of intent and a copy of the slate's statement of intent accepting maximum expenditure limitations;

(b) The financial reports filed by or on behalf of the participating political party as of the date of the request for certification that indicate that the political party has raised a threshold qualifying amount in qualifying party contributions for a transfer from the fund at a one (1) for one (1) matching ratio;

(c) A copy of the slate's request for certification under subsection (3) of this section; and

(d) Any other information reasonably necessary that is required by the registry.

(5) The registry shall certify whether a ***participating*** slate[~~ of candidates~~] is eligible to receive a primary election transfer no later than seven (7) working days after the slate submits the required documentation.

(6)[~~(5)~~]The registry shall certify whether a ***participating*** slate ***or a participating political party***[~~of candidates~~] is eligible to receive a regular election transfer not later than seven (7) working days after the ***participating*** slate ***or the participating political party*** submits the required documentation; except that if the slate is required to take part in a primary election, the results of the primary election shall have been certified by the registry.

(7)[~~(6)~~]A separate determination and certification shall be made for a primary and a regular election.

(8)[~~(7)~~]The certification issued by the registry shall indicate:

(a) Whether a ***participating*** slate ***or participating political party***[~~of candidates~~] is eligible to receive a transfer; and

(b) The amount of fund transfers the ***participating*** slate ***or participating political party***[~~of candidates~~] is eligible to receive based on the amount of qualifying contributions that the ***participating*** slate ***or the participating political party*** has received at the time that it requests a transfer eligibility certification.

(9)[~~(8)~~]A ***participating*** slate[~~ of candidates~~] may make multiple requests for fund transfer eligibility certification in the course of a primary or regular election***, and a participating political party may make multiple requests for fund transfer eligibility certification in the course of a regular election,*** at the times and in the manner which the registry shall prescribe by administrative regulation.

(10)[~~(9)~~] If a ***participating*** slate ***or a participating political party***[~~of candidates~~] that has filed a statement of intent to accept a transfer is not eligible to receive a transfer ***from the fund***, the certification shall:

(a) State the reasons why the slate ***or political party***[~~of candidates~~] is not eligible to receive a transfer; and

(b) What action, if any, the slate ***or political party***[~~of candidates~~] may take to qualify for a transfer.

(11)[~~(10)~~] A ***participating*** slate ***or participating political party***[~~of candidates~~] may file with the registry a written request to review the determination of the registry no later than seven (7) calendar days after the date of certification. The registry shall issue a ruling not later than ten (10) days after receiving a request to review its determination.

(12)[~~(11)~~] A ***participating*** slate ***or participating political party***[~~of candidates~~] denied certification by the registry may appeal an adverse ruling within twenty (20) days by filing a notice of appeal in the Court of Appeals in accordance with the Rules of Civil Procedure and the appeal of a ruling by the registry shall be advanced on the docket to permit a timely decision.

(13)[~~(12)~~] No threshold qualifying amount shall be required for a ***participating*** slate[~~ of candidates~~] participating in a runoff primary. A ***participating***[~~qualifying~~] slate[~~ of candidates~~] shall be certified to receive a fund transfer for the runoff primary, if one shall be held, upon the registry's certification that the ***participating***[~~qualifying~~] slate[~~ of candidates~~] received the highest or next highest number of votes for its party's nomination for Governor and Lieutenant Governor at the primary election or that a ***participating***[~~qualifying~~] slate[~~ of candidates~~] was determined by lot to be eligible to participate in a runoff primary pursuant to KRS 118.245(6).

(14)[~~(13)~~] No ***participating***[~~qualifying~~] slate[~~ of candidates seeking its party's nomination for Governor and Lieutenant Governor~~] shall be eligible to receive transfers from the fund in a primary or regular election unless at least one (1) opposing slate of candidates has received and deposited in its candidate campaign account funds in an amount not less than the minimum threshold qualifying amount established in subsection (1) of this section. After this requirement has been met in a primary or regular election, ***participating***[~~qualifying~~] slates may independently qualify for subsequent transfers in that election without regard to the ability of another ***participating***[~~qualifying~~] slate in that election to qualify for subsequent transfers in that election.

(15) Nothing in this section shall prohibit a participating slate from raising more than the maximum threshold amount of contributions for any one (1) election if no opposing slate has raised the minimum threshold qualifying amount of contributions for that election. If no opposing slate receives the minimum threshold amount of contributions, then the participating slate is released from the maximum threshold contribution limit.

Section 18. KRS 121A.070 is amended to read as follows:

(1) All transfers received from the fund by a ***participating***[~~qualifying~~] slate[~~ of candidates~~] and all contributions or personal resources of any slate of candidates to be used for campaign expenditures shall be deposited in the candidate campaign account.

(2) For each deposit of a contribution of any amount from a permanent committee to a slate of candidates[~~ for Governor and Lieutenant Governor~~] made in the slate's campaign account, there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

(a) The amount of each permanent committee's contribution deposited;

(b) The date each permanent committee's contribution was received; and

(c) The name and business address of the permanent committee and a description of the major business, social, or political interest represented by the permanent committee.

(3) For each deposit of funds received, other than contributions by permanent committees, in excess of one hundred dollars ($100) made in the account of any slate of candidates[~~ for Governor and Lieutenant Governor~~], there shall be retained by the campaign treasurer a short statement, in the form prescribed by the registry, showing:

(a) The amount of each contribution or amount of personal resources deposited;

(b) The date each contribution was received or each amount of personal resources was made available; and

(c) The name, address, and, in the case of individuals, occupation and employer of each contributor and the spouse of the contributor, and, if a contribution is made from the personal resources of the slate of candidates, the banks and account numbers from which the funds were transferred. The occupation listed for each contributor shall be specific. A general classification, such as "businessman," shall be insufficient. If the contributor or the spouse of the contributor is self-employed, the name under which he is doing business shall be listed.

(4) The slate of candidates shall designate in writing, to be filed with the registry, not more than three (3) individuals who shall be authorized, in addition to the slate, to withdraw funds from the candidate campaign account.

(5) No individual authorized to make withdrawals from the candidate campaign account shall pay any amount out of the account for goods or services furnished, other than staff salaries, except upon the presentation of an invoice submitted by the person to whom the payment is to be made. The invoice shall describe disbursements to persons, the name, address, occupation, and employer of each person, and the date and the amount disbursed. These invoices shall be preserved by the slate of candidates and made available for reasonable inspection and auditing by employees of the registry.

(6) Any interest earned on any deposits made to the candidate campaign account of a participating slate or to the special committee account of a participating political party, regardless of the source of the funds, shall not count toward a participating slate's or a participating political party's maximum contribution threshold limitations or its aggregate expenditure limitations.

Section 19. KRS 121A.080 is amended to read as follows:

(1) *(a)* If the registry certifies that a ***participating***~~[qualifying]~~ slate~~[of candidates]~~ is eligible to receive a transfer from the fund, the slate may submit a transfer entitlement voucher to the registry, complying with the procedures of subsection (7) of this section. ***Participating***~~[Qualifying]~~ slates~~[of candidates]~~ may receive transfers from the fund according to the matching ratio and threshold levels of qualifying contributions received specified in KRS 121A.060(3)(c) and 121A.060(1), respectively. Subject to subsections (4) and (5) of this section, a transfer entitlement voucher may document total qualifying contributions of not less than three hundred thousand dollars ($300,000) but not more than six hundred thousand dollars ($600,000) for a primary or regular election for receipt of total fund transfers equal to twice the amount of qualifying contributions documented. A ***participating***~~[qualifying]~~ slate may submit multiple transfer entitlement vouchers as additional qualifying contributions are received in an election, but the maximum amount of fund transfers a slate may receive in a primary or regular election shall not exceed one million two hundred thousand dollars ($1,200,000), subject to the provisions of subsections (4) and (5) of this section.

(b) If the registry certifies that a participating political party is eligible to receive a transfer from the fund, the party may submit a transfer entitlement voucher to the registry, complying with the procedures in subsection (7) of this section. Participating political parties may receive transfers from the fund according to the matching ratio and threshold levels of qualifying contributions received as specified in Section 17 of this Act. Subject to subsections (4) and (5) of this section, a transfer entitlement voucher may document total qualifying political party contributions of not less than two hundred ten thousand dollars ($210,000) but not more than one million dollars ($1,000,000) for a regular election for receipt of total fund transfers equal to the amount of qualifying political party contributions documented. A participating political party may submit multiple transfer entitlement vouchers as additional qualifying political party contributions are received in an election, but the maximum amount of fund transfers a party may receive in a regular election shall not exceed one million dollars ($1,000,000), subject to the provisions of subsections (4) and (5) of this section. Upon receipt of any transfer from the fund, the participating political party shall deposit the funds into its special committee account.

(2) The fund transfer which a ***participating***~~[qualifying]~~ slate~~[of candidates for Governor and Lieutenant Governor]~~ in a runoff primary may receive shall be three hundred thousand dollars ($300,000).

(3) The fund transfer amounts shall be increased or decreased in accordance with the consumer price index for all urban workers, and the registry shall make that adjustment annually, beginning in 1996, and in a year in which a Governor and Lieutenant Governor are elected not later than the filing deadline for the primary election. If the registry makes a finding of fact, after a public hearing of which all slates of candidates ***and all political parties***~~[for Governor and Lieutenant Governor]~~ shall be notified, that the existing appropriations in the fund are insufficient to cover the anticipated fund transfers, the registry shall reduce the matching ratio to the ratio the registry determines so as not to exceed the amount of the fund. If the matching ratio is reduced for a primary election, it shall be applied retroactively to all transfers made to ***participating***~~[qualifying]~~ slates~~[of candidates]~~ in the primary election. If the matching ratio is reduced for a regular election, it shall be applied retroactively to all transfers made to ***participating***~~[qualifying]~~ slates~~[of candidates]~~ ***and participating political parties*** in the regular election. ***If the registry has reduced the matching ratio of fund transfers, a participating slate or participating political party that has elected to become eligible for fund transfers or that may in the future elect to become eligible for fund transfers, may accept aggregate qualifying contributions that, when added to the maximum threshold qualifying amount established in Section 17 of this Act and the amount equal to the reduced matching ratio or fund transfers, shall not exceed the expenditure limit established in subsection (1) of this section, unless a participating slate or participating political party has been released from the expenditure limitations under subsection (4) or (5) of this section.***

(4) (a) ***1.*** If the registry makes a finding of fact, after a public hearing of which all slates of candidates~~[for Governor and Lieutenant Governor]~~ shall be notified, that in the course of a primary election, runoff primary election, or regular election campaign a slate of candidates~~[for Governor and Lieutenant Governor]~~ that has not accepted the provisions of this chapter has received contributions or made expenditures in excess of the expenditure limit as provided in KRS 121A.030(1), the registry shall certify that those ***participating*** slates~~[of candidates]~~ that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from expenditure limitations and may receive and submit for fund transfers qualifying contributions in excess of six hundred thousand dollars ($600,000). ***Participating*** slates~~[of candidates]~~ released from expenditure limitations in a primary or regular election shall continue to be eligible to receive transfers from the fund. A slate of candidates that is released from expenditure limitations in a runoff primary shall not be eligible for transfers from the fund in excess of three hundred thousand dollars ($300,000), but shall be eligible to accept qualifying contributions for the runoff primary***. In the event that the registry makes a determination under this subparagraph in the course of a regular election campaign to release a participating slate from the expenditure limitations, the participating slate's political party shall also be released from the contribution and expenditure limitations of Sections 15 and 17 of this Act, provided that parties released from the contribution and expenditure limitations shall not be eligible for any additional transfers from the fund***;

2. If the registry makes a finding of fact, after a public hearing of which all political parties shall be notified, that in a course of a regular election campaign a political party that has not accepted the provisions of this chapter has made expenditures in excess of the expenditure limit as provided in Section 15 of this Act, the registry shall certify that those participating political parties that have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers shall be released from the contribution and expenditure limitations as provided in Sections 15 and 17 of this Act, provided that parties released from the contribution and expenditure limitations shall not be eligible for any additional transfers from the fund;

(b) The registry shall conduct a public hearing within three (3) days after any report submitted to the registry by a campaign committee of a slate of candidates ***or a political party*** indicates that the slate of candidates ***or political party*** has, or may have, received contributions or made expenditures in excess of the expenditure limits as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing; and

(c) A public hearing shall be conducted within three (3) days upon petition to the registry by a slate of candidates ***or a political party*** that, based upon its knowledge and belief, another slate of candidates ***or a political party*** has, or may have, received contributions in excess of the expenditure limitations as provided in KRS 121A.030(1). The registry shall issue a ruling not later than seven (7) days after the public hearing.

(5) Nothing in this section shall prevent any slate of candidates from notifying the registry in writing that its campaign committee has received contributions or made expenditures in excess of the expenditure limitations as provided in KRS 121A.030(1)***, nor shall anything in this section prevent any political party from notifying the registry in writing that its special committee has made expenditures in excess of the expenditure limitation as provided in Section 15 of this Act***. In that case, no public hearing shall be held and the registry shall certify that those slates of candidates ***or political parties*** who have elected to become eligible for fund transfers or may in the future elect to become eligible for fund transfers for that election shall be released from expenditure limitations for that election and shall continue to be eligible to receive transfers from the fund if qualified by law.

(6) A slate of candidates shall establish a separate candidate campaign account for each primary, runoff primary, and regular election in which it participates. The unexpended balance of contributions and fund transfers in a candidate campaign account of a slate of candidates which remains after all financial obligations of the particular election for which the account is established have been satisfied shall be forwarded to the registry for deposit in the fund when the account is closed. The payment to the fund shall be made not later than ten (10) working days after the candidate campaign account for a particular election is closed. Funds in the candidate campaign account of a slate of candidates shall be expended only for expenses incurred in the particular election for which the account is established and shall not be used to pay expenses incurred in any other election or for any other purpose.

(7) To receive fund transfers for which it is ***certified to be*** eligible, each ***participating***[~~qualifying~~] slate ***or participating political party***[~~of candidates~~] shall submit to the registry at the times and in the form and manner the registry may require, a transfer entitlement voucher. The ***participating slate's*** voucher shall include the full name of all persons making a contribution to the campaign committee of the slate of candidates together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and the spouse of the contributor, or, if the contributor or the spouse of contributor is self-employed, the name under which he is doing business. ***The participating political party's voucher shall include the full name of all persons making a contribution to the special committee of the political party, together with the date, the exact amount of the contribution, the specific address of the contributor, the congressional district in which the contributor resides, the occupation and employer of the contributor and the spouse of the contributor, or, if the contributor or the spouse of the contributor is self-employed, the name under which he or she is doing business.***

(8) Within three (3) working days of the receipt of the voucher, the registry shall:

(a) Make a determination, according to the procedures the registry may establish by administrative regulation, whether each contribution enumerated on the voucher is consistent with the provisions of this chapter;

(b) Certify for payment to the ***participating***[~~qualifying~~] slate ***or the participating political party***[~~of candidates~~] the amount of fund transfer for which it is eligible; and

(c) Promptly upon certification, issue a warrant on the fund for a transfer to the ***participating***[~~qualifying~~] slate[~~ of candidates~~] or its authorized treasurer***, or to the authorized treasurer of the participating political party's special committee*** in the amount certified by the registry.

(9) For the purpose of financing primary election campaigns, the registry shall make no transfer to a ***participating***[~~qualifying~~] slate[~~ of candidates~~] entitled to transfers from the fund earlier than January 1 of a year in which the Governor and Lieutenant Governor are elected.

(10) Transfers from the fund for a regular election campaign shall not be made earlier than the date the results of the primary election preceding the regular election of a year in which the Governor and Lieutenant Governor are elected are certified. If a ***participating***[~~qualifying~~] slate[~~ of candidates~~] is unopposed in a primary election, or has no opposition that has

received contributions of not less than the threshold qualifying amount for the primary election, the registry shall make no transfer to that slate from the fund for the primary election***, and the slate shall be treated for purposes of the primary election as if it had executed a statement of intent to reject a transfer from the fund***. If a ***participating***[~~qualifying~~] slate[~~ of candidates~~] is unopposed in a regular election, or has no opposition that has received contributions of not less than the minimum threshold qualifying amount for the regular election, the registry shall make no transfer to that slate ***or to its participating political party*** from the fund for the regular election***, and the slate and its party shall be treated for purposes of the regular election as if they had executed statements of intent to reject transfers from the fund***.

(11) If a vacancy occurs in a slate of candidates before the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry not later than the deadline for printing primary election ballots, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a vacancy occurs in a slate of candidates after the ballots are printed for the primary election, the remaining member of the slate may designate a replacement for the vacant candidate or change the composition of the slate and designate a running mate on forms filed with the registry prior to the primary election, but only following certification to the remaining candidate by the Secretary of State that a vacancy exists for a reason specified in this subsection. If a replacement for a vacant candidate is made after the ballots are printed for the primary election because of death, disqualification to hold the office sought, or severe disabling condition which arose after the slate formed a campaign committee, notices informing the voters of the change in the composition of the slate shall be posted at each precinct polling place.

(12) The provisions of KRS 118.105 shall apply to vacancies occurring in the nomination of a qualifying slate of candidates.

(13) If during the course of a primary or regular election, a ***participating***[~~qualifying~~] slate[~~ of candidates~~] withdraws, is otherwise removed from the ballot, becomes the only slate of candidates for a party nomination or election on the ballot, or if both candidates on the slate die, the registry shall certify and pay on vouchers previously submitted by that slate, but any subsequent vouchers submitted by that slate shall not be certified nor shall transfers be made.

(14) The registry shall not certify any contribution made to a ***participating***[~~qualifying~~] slate[~~ of candidates~~] entitled to transfers from the fund, which, when added to other contributions made by the same contributor to the slate in connection with the primary election and in connection with the regular election, violates the provisions of KRS 121A.050 or 121.150.

(15) The registry shall perform a continuing audit of all slates of candidates[~~ for Governor and Lieutenant Governor~~] to ensure that they are in compliance with this chapter and the election laws of the Commonwealth.

Section 20. KRS 121A.110 is amended to read as follows:

No ***member of a*** slate of candidates***, treasurer of a slate's campaign committee, political party chairperson, treasurer for a political party's special committee,*** or individual who receives any transfer from the fund, or to whom any portion of any transfer received from the fund is paid, shall[~~ knowingly~~] use, or authorize the use of, the transfer or portion thereof for any purpose other than to defray the qualified campaign expenses with respect to which the payment was made or to[~~ knowingly~~] expend the funds on any item or service otherwise prohibited under this chapter or the laws of this Commonwealth.

Section 21. KRS 121A.990 is amended to read as follows:

(1) ***The registry shall issue an order, under Section 3 of this Act, requiring any slate of candidates, political party, authorized treasurer of a campaign committee, authorized treasurer or chairperson of a special committee, political party chairperson, or any other individual who unintentionally violates any of the provisions of KRS Chapter 121A to comply with any one (1) or more of the following civil penalties;***

- ***(a) To cease and desist violations of KRS Chapter 121A;***
- ***(b) To file any reports or other documents or information required by KRS Chapter 121A;***
- ***(c) To pay a penalty not to exceed one hundred dollars ($100) a day, up to a maximum total fine of five thousand dollars ($5,000), except that there shall be no maximum total fine for candidates for statewide office, for failure to file any report or other document or information required by law until the report, document, or information is filed; or***
- ***(d) To pay a penalty not to exceed five thousand dollars ($5,000) for each act of noncompliance with provisions of KRS Chapter 121A, except that:***
  - ***1. If a participating slate unintentionally exceeds the expenditure limit of Section 15 of this Act by more than five percent (5%), then the members of the slate and the slate's campaign treasurer shall each be subject to a civil penalty not to exceed five (5) times the amount by which the expenditure limit was exceeded; and***
  - ***2. If a participating political party unintentionally exceeds the expenditure limit of Section 15 of this Act by more than five percent (5%), then the authorized treasurer and the chairperson of the party's special committee shall each be subject to a civil penalty not to exceed five (5) times the amount by which the***

expenditure limit was exceeded.

(2) In addition to the civil penalties provided in subsection (1) of this section, the following criminal penalties shall apply to violations of KRS Chapter 121A:

(a) Any slate of candidates, ***political party,*** authorized treasurer ***of a campaign committee, the authorized treasurer or chairperson of a special committee, political party chairperson***, or any other individual who ***intentionally or*** knowingly violates the expenditure limitations imposed by KRS 121A.030 or the contribution limitations imposed by KRS 121A.050, ***intentionally or*** knowingly misuses any transfers from the fund in violation of KRS 121A.110, or ***intentionally or*** knowingly falsifies any record required to be submitted or retained by the slate ***or the political party*** under this chapter shall be guilty of a Class D felony, and shall be disqualified from being appointed to or becoming a candidate for public office, or holding public office, for a period of five (5) years from the date of final judicial determination of guilt***;***[~~.~~]

(b) In addition to the penalties set out in this subsection, pursuant to Section 151 of the Constitution of Kentucky, any slate of candidates nominated or elected prior to a final judicial determination that the slate has ***intentionally or*** knowingly committed any of the violations contained in paragraph (a) of this subsection shall, upon that final judicial determination, forfeit the nomination or election, and, if the slate of candidates has assumed office, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve***;***[~~.~~]

(c) In addition to the penalties set out in this subsection, if any slate of candidates, ***political party,*** authorized treasurer ***of a campaign committee or a party special committee, political party chairperson***, or any other individual acting in complicity with the slate***, political party,***[~~ or~~] treasurer ***of the campaign committee or special committee, or political party*** is convicted of ***intentionally or*** knowingly violating the provisions of this subsection, the court shall order the defendant, the slate, and the campaign committee treasurer to immediately refund all fund transfers to the election campaign fund and shall enter a judgment lien against the slate and its campaign committee for that purpose***;***[~~.~~]

(d)[~~(2)~~]Any appointed or elected state officeholder or any other person who ***intentionally or*** knowingly violates the provisions of KRS 121A.100(2), or of any administrative regulation promulgated by the Kentucky Authority for Educational Television under KRS 121A.010(1), shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve***; or***[~~.~~]

(e)[~~(3)~~]Any individual who ***intentionally or*** knowingly violates any other provisions of KRS 121A.010 to 121A.110, or of any administrative regulation promulgated by the registry under KRS 121A.010 to 121A.110 ***with the intent to exceed the contribution or expenditure limitation or to violate the reporting requirements of KRS Chapter 121A***, shall be guilty of a Class D felony. In the event a slate of candidates has assumed office, upon a final judicial determination of guilt, their offices shall be declared vacant and they shall forfeit all benefits which they would have been entitled to receive had they continued to serve.

(3)[~~(4)~~]***The registry shall have primary jurisdiction over all alleged violations of KRS Chapter 121A.*** If the registry determines that probable cause exists to believe a ***knowing or intentional*** violation of this chapter has[~~ knowingly~~] occurred, the registry shall immediately transmit its ***written*** determination to the appropriate Commonwealth's attorney and the Attorney General. ***The Commonwealth's attorney or county attorney for the county in which the slated candidates reside shall be the chief prosecutor in any criminal prosecution of any violation under this chapter. In the event that the Commonwealth's attorney or county attorney fails or refuses to prosecute a violator, upon written request from the registry, the Attorney General shall appoint a special prosecutor with full authority to carry out the provisions of this section.***

(4) Violations of KRS Chapter 121A shall include, but shall not be limited to, any of the following acts or omissions:

(a) Failure to make required reports or to file reports at times specified;

(b) Making any false statement or report; or

(c) Giving money under a fictitious name.

(5) Any office or candidacy declared vacant following a final judicial determination of guilt under this section shall be filled as provided by law for the filling of a vacancy. After a final determination of guilt has been made, an action to declare a vacancy under this section may be brought by the registry, the Attorney General, any candidate or slate of candidates for the office sought to be declared vacant, or any qualified voter.

(6) The Attorney General, Commonwealth's attorney, the registry, or any qualified voter may sue for injunctive relief to compel compliance with the provisions of KRS Chapter 121A.

Section 22. KRS 15.242 is amended to read as follows:

(1) The Attorney General shall possess ***primary*** jurisdiction, concurrent with that of county and Commonwealth's attorneys, to investigate and prosecute violations of the election laws. The Attorney General, county attorneys, and Commonwealth's attorneys shall notify the Registry of Election Finance of any investigation or prosecution of alleged election law violations.

(2) As used in this section and in Section 23 of this Act, "election laws" means all those provisions contained in KRS Chapters 116, 117, 118, 118A, 118B, 119, and 120, and KRS 121.025, 121.035, 121.045, 121.055, 121.056, 121.065, Section 26 of this Act, KRS 121.320, and KRS 121.330, but does not include subsection (5) of Section 2 of this Act, Section 4 of this Act, Section 5 of this Act, KRS 121.170, Section 6 of this Act, Section 7 of this Act, KRS 121.190, Section 8 of this Act, Section 9 of this Act, and Section 10 of this Act, nor does it include any provision of KRS Chapter 121A.

Section 23. KRS 15.243 is amended to read as follows:

(1) In addition to the other duties and powers of the Attorney General, he shall enforce all of the state's election laws by civil or criminal processes.

(2) The Attorney General shall:

(a) Devise and administer programs to observe the conduct of elections;

(b) Hold public hearings;

(c) Establish a toll-free telephone service for the purpose of receiving reports of election law violations. The service shall be operated during regular business hours throughout the year and during the hours which any poll in the state is open on the day of any primary, special election or regular election;

(d) Initiate investigations or investigate alleged violations of election laws at the request of a registered voter or on his own motion;

(e) Issue subpoenas for the production of any books, papers, correspondence, memoranda or other records, and compel the attendance of witnesses that he deems relevant to the purposes of any investigation;

(f) Present evidence of alleged violations to a grand jury; and

(g) File appropriate complaints in any court of competent jurisdiction.

(3) (a) The Attorney General shall be required to begin an independent inquiry for any potential irregularities that may have occurred in each election in not fewer than five percent (5%) of Kentucky's counties, to be selected at random in a public process, within twenty (20) days following each primary or regular election. No county shall be subject to inquiry under this subsection in two (2) consecutive elections.

(b) The Attorney General shall report his findings to the grand jury of each county involved and to the chief circuit judge for the circuit in which the county is located.

(4) When the Registry of Election Finance concludes there is probable cause to believe a violation of election laws has occurred, ***or that a knowing or intentional violation of the campaign finance laws as defined in KRS Chapter 121 or 121A has occurred,*** it shall forward the matter to the Attorney General for prosecution. In the event the Attorney General or local prosecutor fails to prosecute the matter in a timely fashion, the registry's attorney may petition the Circuit Court to be appointed as a special prosecutor. Upon such motion timely filed, for good cause shown, the court shall enter an order to that effect.

(5) When requested by the Attorney General, all state and local agencies and officials, including the Auditor of Public Accounts, Commonwealth's attorneys, county attorneys, Registry of Election Finance, State Police, sheriffs' departments and local police shall give all possible assistance to the Attorney General in the performance of his duties.

Section 24. KRS 121A.050 is amended to read as follows:

(1) A slate of candidates shall not~~[knowingly]~~ accept a contribution from a natural person, permanent committee, state or county executive committee of a political party, or contributing organization of more than one thousand dollars ($1,000) in any one (1) election. Except for independent expenditures, no natural person, permanent committee, state or county executive committee of a political party, or contributing organization shall~~[knowingly]~~ make a contribution of more than one thousand dollars ($1,000) in any one (1) election to a slate of candidates.

(2) No slate of candidates shall~~[knowingly]~~ accept any cash contribution from a natural person, permanent committee, state or county executive committee of a political party, or contributing organization. No natural person, permanent committee, state or county executive committee of a political party, or contributing organization shall~~[knowingly]~~ make a cash contribution to a slate of candidates.

(3) A group of individuals which shares the cost associated with the purchase of or payment for goods or services for the benefit of a slate of candidates or advertising which expressly advocates the election or defeat of a slate of candidates shall report to the registry as a contributing organization as required by KRS 121A.010(10) and shall be bound by the contribution limit established by subsection (1) of this section. This subsection shall not be construed to restrict the right of an individual to make a legitimate independent expenditure as defined by ***subsection (13) of Section 12 of this Act***~~[KRS 121.150(1)]~~.

Section 25. KRS 121A.015 is amended to read as follows:

(1) One (1) or more persons may establish an exploratory committee for the purposes of determining the feasibility of forming a slate of candidates~~[for Governor and Lieutenant Governor]~~ or of determining the composition of a slate of candidates for Governor and Lieutenant Governor prior to filing a joint notification and declaration as a slate of candidates pursuant to KRS 118.125 and 118.127. An exploratory committee shall not be established earlier than the year before the year in which a slate of candidates~~[for Governor and Lieutenant Governor]~~ shall be elected. An exploratory committee shall register with the registry on a form prescribed by the registry prior to accepting contributions or making expenditures related to the exploratory effort and shall designate the committee's chairman and treasurer, the bank in which its finance account will be maintained, and the persons on whose behalf the exploratory committee is established. An exploratory committee shall terminate its registration upon the filing of a joint notification and declaration as a slate of candidates~~[for Governor and Lieutenant Governor]~~ by the persons on whose behalf the exploratory committee was established, upon a determination that a slate of candidates will not be formed as a result of the exploratory effort, or prior to conducting activities that indicate that a determination has been made to form a specific slate of candidates~~[for Governor and Lieutenant Governor]~~ including any activities specified in subsection (2)(a) to (d) of this section.

(2) Activities that may be financed with contributions accepted by an exploratory committee include polling, traveling, making telephone calls, and other activities conducted solely for the purpose of determining whether one (1) or more persons should form a slate of candidates~~[for Governor and Lieutenant Governor]~~. An exploratory committee shall not expend funds in its account for activities which indicate that persons on whose behalf the exploratory committee was established have decided to form a specific slate of candidates~~[for Governor and Lieutenant Governor]~~, including, but not limited to:

(a) Using general public political advertising to publicize an intention to campaign as a specific slate of candidates~~[for Governor and Lieutenant Governor]~~;

(b) Making or authorizing others to make written or oral statements that refer to the persons as a slate of candidates~~[for Governor and Lieutenant Governor]~~;

(c) Making expenditures or contracting to make expenditures that would further a candidacy should the determination be made to form a specific slate of candidates~~[for Govenor and Lieutenant Governor]~~, such as expenditures for advertising, campaign equipment or supplies, or office space which would be used after the termination of the exploratory committee; and

(d) Conducting further activities after the persons on whose behalf the exploratory committee was established have filed a joint notification and declaration as a slate of candidates~~[for Governor and Lieutenant Governor]~~.

(3) An exploratory committee shall not accept contributions or make expenditures which in the aggregate exceed ninety thousand dollars ($90,000). All contributions accepted by an exploratory committee shall comply with the provisions of KRS 121.150 as they apply to a candidate for the duration of the exploratory committee's registration. A contribution a person makes to an exploratory committee shall not be counted towards the limit on contributions a person may make to a slate of candidates formed as a result of the exploratory effort. Funds expended by an exploratory committee shall not be counted towards the spending limit established by KRS 121A.030 should a slate of candidates be formed as a result of the exploratory effort.

(4) The campaign treasurer of an exploratory committee shall maintain the same information required of a campaign treasurer for a slate of candidates~~[for Governor and Lieutenant Governor]~~ as provided in KRS 121A.070 and shall comply with the same reporting requirements required of a slate of candidates as provided in KRS 121.180(3)(a). Expenses for food, travel, and lodging shall not be reported to the registry unless those expenses are paid for from funds in the account of the exploratory committee. In lieu of the reporting requirements of KRS 121.180(3)(b), the reports required by this subsection shall be filed with the registry not later than five (5) days after the last day of the calendar month the exploratory committee registers with the registry, not later than five (5) days after the last day of each subsequent calendar month in which the exploratory committee remains registered, and not later than thirty (30) days after the exploratory committee terminates its registration. An exploratory committee shall be subject to the provisions of KRS 121.140 and ***Section 21 of this Act***~~[KRS 121.990(3) and (4)]~~ for violations of contribution limitations or reporting requirements to the same extent as a slate of candidates or any other alleged violator of the campaign finance laws.

(5) No assets of an exploratory committee, including funds in the exploratory committee's account, equipment, supplies, or any other thing of value which was contributed to or purchased, leased, or prepaid by the exploratory committee shall be transferred to a campaign account established for a slate of candidates by the persons on whose behalf the exploratory committee was established or to any other person. All funds in the exploratory committee's account at the time of its termination shall be transferred to the election campaign fund established pursuant to KRS 121A.020.

Section 26. KRS 121.310 is amended to read as follows:

(1) No person shall coerce or direct any ***state, county, city, or other public*** employee to vote for any political party or candidate for nomination or election to any office in this state, or threaten to discharge any ***state, county, city, or other public*** employee if he votes for any candidate, or discharge any ***state, county, city, or other public*** employee on account of his exercise of suffrage, or give out or circulate any ***written*** statement or report that ***state, county, city, or other public*** employees~~[are expected or]~~ have been~~[requested or]~~ directed by the employer, or by anyone acting for him, to vote for

any person, group of persons or measure.

(2) No corporation organized or authorized to do business in this state shall influence or attempt to influence, by bribe, favor, promise, inducement or ***coercion***[~~otherwise~~], the vote or suffrage of any employee of such corporation against or in favor of any candidate, platform, principle or issue in any election held under the laws of this state.

Section 27. KRS 61.012 is amended to read as follows:

No person shall be qualified to hold any appointive state office or position, made by gubernatorial appointment, until the person provides the secretary of the Personnel Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that his appointment to a state office or position will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware[~~ or should have been aware~~] that his conduct is of that nature or that the circumstance exists.

Section 28. KRS 45A.110 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made and it shall be made in accordance with administrative regulations promulgated by the secretary of the Finance and Administration Cabinet. A reasonable inquiry to determine the responsibility of a bidder or offeror may be conducted. The failure of a bidder or offeror to promptly supply information in connection with such an inquiry may be grounds for a determination of nonresponsibility with respect to such a bidder or offeror.

(2) A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the secretary of the Finance and Administration Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to a bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware[~~ or should have been aware~~] that his conduct is of that nature or that the circumstance exists.

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the Division of State Purchasing or the purchasing agency administering the contract without prior written consent of the bidder or offeror.

Section 29. KRS 45A.115 is amended to read as follows:

The secretary of the Finance and Administration Cabinet may provide for prequalification of suppliers as responsible prospective contractors for particular types of supplies, services, and construction. The secretary of the Finance and Administration Cabinet shall not prequalify a supplier as a responsible prospective contractor until the supplier provides the secretary with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware[~~ or should have been aware~~] that his conduct is of that nature or that the circumstance exists. Solicitation lists of potential contractors of such supplies, services, and construction shall include but shall not be limited to such prequalified suppliers. Prequalification shall not foreclose a written determination:

(1) Between the time of the bid opening or receipt of offers and the making of an award, that a prequalified supplier is not responsible; or

(2) That a supplier who is not prequalified at the time of bid opening or receipt of offers is responsible.

Section 30. KRS 45A.395 is amended to read as follows:

(1) A written determination of responsibility of a bidder or offeror shall be made, based on a reasonable inquiry conducted by the local public agency. The unreasonable failure of a bidder or offeror to promptly supply information upon request may be grounds for a determination of nonresponsibility of such bidder or offeror.

(2) A written determination of responsibility of a bidder or offeror shall not be made until the bidder or offeror provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the bidder or offeror will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware[~~ or should have been aware~~] that his conduct is of that nature or that the circumstance exists.

(3) Except as otherwise provided by law, information furnished by a bidder or offeror pursuant to this section may not be disclosed outside of the local public agency without prior written consent of the bidder or offeror.

Section 31. KRS 45A.400 is amended to read as follows:

Suppliers may be prequalified as responsible prospective contractors for particular types of supplies, services, and construction. No supplier shall be prequalified as a responsible prospective contractor until the supplier provides the local public agency with a sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the supplier will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware~~[or should have been aware]~~ that his conduct is of that nature or that the circumstance exists. Solicitation mailing lists of potential contractors of such supplies, services, and construction shall include, but shall not be limited to, such prequalified prospective contractors. Prequalification shall not foreclose a written determination:

(1) Between the time of bid opening or receipt of offers in the making of an award that a prequalified prospective contractor is not responsible; or

(2) That a prospective contractor who is not prequalified at the time of bid opening or receipt of offers is responsible.

Section 32. KRS 176.150 is amended to read as follows:

(1) No applicant shall be given a certificate of eligibility unless his financial statement and the investigation made by the department show that he possesses net current assets or working capital sufficient in the judgment of the department to render it probable that he can satisfactorily execute his contracts and meet obligations therein incurred. All applications for certificates shall expressly authorize the department to obtain all information which it deems pertinent with respect to the financial status, assets, and liabilities of the applicant from any persons having business transactions with the applicant, and shall expressly authorize all those persons to furnish any information requested from them by the department.

(2) No applicant shall be given a certificate of eligibility until the applicant provides the secretary of the Transportation Cabinet with his sworn statement made under penalty of perjury that he has not knowingly violated any provision of the campaign finance laws of the Commonwealth and that the award of a contract to the applicant will not violate any provision of the campaign finance laws of the Commonwealth. "Knowingly" means, with respect to conduct or to a circumstance described by a statute defining an offense, that a person is aware~~[or should have been aware]~~ that his conduct is of that nature or that the circumstance exists.

(3) Certificates of eligibility shall be issued without reference to the residence of applicants and the administrative regulations regarding the issuance of certificates shall apply equally to residents and nonresidents. A certificate of eligibility shall not be denied to any applicant upon the sole issue of nationality or residence.

(4) When the applicant is a foreign corporation, the application shall be accompanied by a certificate from the Secretary of State that such corporation is authorized to do business in the state in which it is incorporated.

HB 777, AN ACT relating to candidates for office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ------ Party, I, ------ (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that I believe in the principles of the ------ Party, and intend to support its principles and policies; ***that I meet all the statutory and constitutional qualifications for the office which I am seeking;*** that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to by the person making it before an officer authorized to administer an oath.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ------ Party, I, ------, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is -----

(street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; and I, ------, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that we believe in the principles of the ------ Party, and intend to support its principles and policies; ***that we meet all the statutory and constitutional qualifications for the offices which we are seeking;*** that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to by the persons making it before an officer authorized to administer an oath.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

The Committee Substitute to **HB 777** is as follows:

HB 777, AN ACT relating to candidates for office.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.125 is amended to read as follows:

(1) Except as provided in KRS 118.155, any person who is qualified under the provisions of KRS 116.055 to vote in any primary election for the candidates for nomination by the party at whose hands he seeks the nomination, shall have his name printed on the official ballot of his party for an office to which he is eligible in that primary, upon filing, with the Secretary of State or county clerk, as appropriate, at the proper time, a notification and declaration.

(2) The notification and declaration shall be in the form prescribed by the State Board of Elections. It shall be signed by the candidate and by not less than two (2) registered voters of the same party from the district or jurisdiction from which the candidate seeks nomination.

(a) The notification and declaration for a candidate for an office other than Governor or Lieutenant Governor shall include the following oath:

"For the purpose of having my name placed on the official primary election ballot as a candidate for nomination by the ------ Party, I, ------ (name in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that I believe in the principles of the ------ Party, and intend to support its principles and policies; ***that I meet all the statutory and constitutional qualifications for the office which I am seeking;*** that if nominated as a candidate of such party at the ensuing election I will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that I will not knowingly violate any election law or any law relating to corrupt and fraudulent practice in campaigns or elections in this state, and if finally elected I will qualify for the office."

The declaration shall be subscribed and sworn to ***before an officer authorized to administer an oath by the candidate and by the two (2) voters making the declaration and signing the candidate's petition for office***~~[by the person making it before an officer authorized to administer an oath]~~.

(b) The notification and declaration for a slate of candidates for Governor and Lieutenant Governor shall include the following oath:

"For the purpose of having our names placed on the official primary election ballot as a slate of candidates for Governor and Lieutenant Governor for nomination by the ------ Party, I, ------, (name of candidate for Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; and I, ------, (name of candidate for Lieutenant Governor in full as desired on the ballot as provided in KRS 118.129), do solemnly swear that my residence address is ----- (street, route, highway, city if applicable, county, state, and zip code), that my mailing address, if different, is ----- (post office address), and that I am a registered ------ (party) voter in ------ precinct; that we believe in the principles of the ------ Party, and intend to support its principles and policies; ***that***

we meet all the statutory and constitutional qualifications for the offices which we are seeking; that we will accept the nomination and not withdraw for reasons other than those stated in KRS 118.105(3); that we will not knowingly violate any election law or any law relating to corrupt or fraudulent practice in campaigns or elections in this state, and if finally elected we will qualify for our offices."

The declaration shall be subscribed and sworn to ***before an officer authorized to administer an oath*** by the ***candidate and by the two (2) voters making the declaration and signing the petition for office***~~[persons making it before an officer authorized to administer an oath]~~.

(3) When the notice and declaration has been filed with the Secretary of State or county clerk, as appropriate, and certified according to KRS 118.165, the Secretary of State or county clerk, as appropriate, shall have the candidate's name printed on the ballot according to the provisions of this chapter, except as provided in KRS 118.185.

(4) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

Section 2. KRS 118.315 is amended to read as follows:

(1) A candidate for any office to be voted for at any regular election may be nominated by a petition of electors qualified to vote for him, complying with the provisions of subsection (2) of this section. No person who is a registered member of a political party shall be eligible to election as an independent candidate, nor shall any person be eligible to election as an independent candidate who was a registered member of a political party on December 31 immediately preceding the regular election for which the person seeks to be a candidate. This restriction shall not apply to candidates to those offices specified in KRS 118.105(5), for supervisor of a soil and water conservation district, for candidates for mayor or legislative body in cities of the second to sixth class, or to candidates participating in nonpartisan elections.

(2) The form of the petition shall be prescribed by the State Board of Elections. It shall be signed by the candidate and by registered voters from the district or jurisdiction from which the candidate seeks nomination. ***The petition shall include a declaration, sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed.*** Signatures for a petition of nomination for a candidate seeking any office shall not be solicited prior to the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot. A petition of nomination for a state officer, or any officer for whom all the electors of the state are entitled to vote, shall contain five thousand (5,000) petitioners; for a representative in Congress from any congressional district, or for any officer from any other district except as herein provided, four hundred (400) petitioners; for a county officer, member of the General Assembly, or Commonwealth's attorney, one hundred (100) petitioners; for a soil and water conservation district supervisor, twenty-five (25) petitioners; for a city officer, two (2) petitioners; and for an officer of a division less than a county, except as herein provided, twenty (20) petitioners. It shall not be necessary that the signatures of the petition be appended to one (1) paper. Each petitioner shall include his residence, Social Security number or date of birth, and post-office address. Failure of a voter to include his Social Security number or date of birth and address shall result in his signature not being counted. If any person joins in nominating, by petition, more than one (1) nominee for any office to be filled, he shall be counted as a petitioner for the candidate whose petition is filed first, except a petitioner for the nomination of candidates for soil and water conservation district supervisors may be counted for every petition to which his signature is affixed.

(3) Titles, ranks, or spurious phrases shall not be accepted on the filing papers and shall not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be accepted as the candidate's name.

(4) The Secretary of State and county clerks shall examine the petitions of all candidates who file with them to determine whether each petition is regular on its face. If there is an error, the Secretary of State or the county clerk shall notify the candidate by certified mail within twenty-four (24) hours of filing.

Section 3. KRS 118A.060 is amended to read as follows:

(1) Except as provided in KRS 118A.100, no person's name shall appear on a ballot label or absentee ballot for an office of the Court of Justice without first having been nominated as provided in this section.

(2) Each candidate for nomination shall file a petition for nomination with the Secretary of State not earlier than the first Wednesday after the first Monday in November of the year preceding the year in which the office will appear on the ballot and not later than the last Tuesday in January preceding the day fixed by law for holding the primary election for the office. The petition shall be ***sworn to before an officer authorized to administer an oath***~~[signed]~~ by the candidate and by not less than two (2) registered voters from the district or circuit from which he seeks nomination. The petition shall be filed no later than 4 p.m. local time at the place of filing when filed on the last date on which the papers are permitted to be filed.

(3) The petition for nomination shall be in the form prescribed by the State Board of Elections. ***The petition shall include a declaration sworn to by the candidate, that he or she possesses all the constitutional and statutory requirements of the office for which the candidate has filed.*** Titles, ranks, or spurious phrases shall not be accepted on the petition and shall

not be printed on the ballots as part of the candidate's name; however, nicknames, initials, and contractions of given names may be acceptable as the candidate's name.

(4) The Secretary of State shall examine the petition of each candidate to determine whether it is regular on its face. If there is an error, the Secretary of State shall notify the candidate by certified mail within twenty-four (24) hours of filing. The order of names on the ballot for each district or circuit, and numbered division thereof if divisions exist, shall be determined by lot at a public drawing to be held in the office of the Secretary of State at 2 p.m., standard time, on the Thursday following the last Tuesday in January preceding the primary election.

(5) Not later than the third Tuesday in February preceding the primary election, and after the order of names on the ballot has been determined as required in subsection (4) of this section, the Secretary of State shall:

(a) Certify to the county clerks of the respective counties entitled to participate in the election of the various candidates, the name and place of residence of each candidate for each office, by district or circuit, and numbered division thereof if divisions exist, as specified in the petitions for nomination filed with him; and

(b) Designate for the county clerks the office of the Court of Justice with which the names of candidates shall be printed and the order in which they are to appear on the ballot.

(6) The ballot position of a candidate shall not be changed after the ballot position has been designated by the county clerk.

(7) The county clerks of each county shall cause to be printed on the ballot labels for the voting machines and on the special ballots for the primary the names of the candidates for offices in the Court of Justice.

(8) The names of the candidates shall be placed on the voting machine in a separate column or columns or in a separate line or lines and identified by the words "Judicial Ballot." The words "Vote for one," or "Vote for one in each division," shall be printed on the ballot in an appropriate location. The office, numbered division thereof if divisions exist, and the candidates therefor shall be clearly labeled. No party designation or emblem of any kind, nor any sign indicating any candidate's political belief or party affiliation, shall be used on voting machines or special ballots.

(9) The two (2) candidates receiving the highest number of votes for nomination for justice or judge of a district or circuit, or numbered division thereof if divisions exist, shall be nominated. Certificates of nomination shall be issued as provided in KRS 118A.190.

(10) If it appears after expiration of the time for filing petitions for nomination that there are not more than two (2) candidates who have filed the necessary petitions for a place on the ballot in the regular election, no drawing for ballot position shall be held and the Secretary of State shall immediately issue and file in his office certificates of nomination, and send copies to the candidates.

The Committee on Transportation reported **HB 118,** with Committee Substitute attached thereto, **HB 563,** with Committee Substitute attached thereto, **HB 585,** with Committee Amendment attached thereto, **HB 691,** with Committee Substitute attached thereto, **HB 819, HJR 122,** and **HR 130** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 118, AN ACT relating to special license plates for independent colleges and universities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186.186 TO 186.1867 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 may apply for an independent collegiate license plate for any independent college or university licensed by the Council on Postsecondary Education.

(2) An independent collegiate license plate shall be the color and design selected by the Association of Independent Kentucky Colleges and Universities and approved by the Transportation Cabinet. The name "Kentucky" and the annual renewal decal shall appear on the plate, along with a decal bearing a seal representing the college or university and a decal bearing the name of the college or university. The Transportation Cabinet may use any combination of numerals or letters as needed in the numbering of the license plate.

(3) In addition to the fees required by KRS 186.186, a person applying for an independent college license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with an independent college license plate shall pay a ten dollar ($10) fee, in addition to the renewal fee established in KRS 186.186(2). The additional fees under this subsection shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4) The ten dollar ($10) initial fee and the ten dollar ($10) renewal fee collected under subsection (3) of this section shall be forwarded annually by the Transportation Cabinet to the general scholarship fund of the college or university whose name is borne on decals affixed to the plate.

The Committee Substitute to **HB 118** is as follows:

HB 118, AN ACT relating to special license plates for independent colleges and universities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.186 TO 186.1867 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 may apply for an independent collegiate license plate for any independent college or university licensed by the Council on Postsecondary Education.

(2) An independent collegiate license plate shall be the color and design selected by the Association of Independent Kentucky Colleges and Universities and approved by the Transportation Cabinet. The name "Kentucky" and the annual renewal decal shall appear on the plate, along with the logo of the Kentucky Association of Independent Colleges and Universities and a decal bearing the name of the college or university selected by the person purchasing the plate. The Transportation Cabinet may use any combination of numerals or letters as needed in the numbering of the license plate.

(3) In addition to the fees required by KRS 186.186, a person applying for an independent college license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. When applying for an annual renewal registration decal, a person with an independent college license plate shall pay a ten dollar ($10) fee, in addition to the renewal fee established in KRS 186.186(2). The additional fees under this subsection shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4) The ten dollar ($10) initial fee and the ten dollar ($10) renewal fee collected under subsection (3) of this section shall be forwarded annually by the Transportation Cabinet to the Kentucky Association of Independent Colleges and Universities for distribution to the general scholarship funds of the Association's members.

HB 563, AN ACT relating to highway weight limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.222 is amended to read as follows:

(1) ***Except as provided in subsection (2) of this section,*** the secretary of the Transportation Cabinet in respect to highways which are a part of the state-maintained system, by official order, may increase on designated highways or portions thereof, the maximum height, length, and gross weight prescribed in KRS 189.221, if in the opinion of the secretary, the increased height, length, and weight designated by him are justified by the strength, safety, and durability of the designated highways, and the highways do not appear susceptible to unreasonable and unusual damage by reason of the increases and the secretary may establish reasonable classification of state maintained roads and fix a different maximum for each classification. Any increase in the height, length, or width of any motor truck or tractor semitrailer combinations or any other vehicle combinations including any part of the body or load or designation of highways to be used by the vehicles, shall not, in any way, exceed the federal law or regulations thereunder or jeopardize the allotment or qualification for federal aid funds of the Commonwealth of Kentucky or exceed the following dimensions and weights:

- (a) Height, thirteen and one-half (13-1/2) feet;
- (b) Length, semitrailers, fifty-three (53) feet; trailers, twenty-eight (28) feet; motor trucks, forty-five (45) feet, not to exceed two (2) trailers per truck tractor;
- (c) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. ***A***[~~No~~] single axle in any arrangement shall ***not*** exceed twenty thousand (20,000) pounds or seven hundred (700) pounds per inch of the aggregate width of all the tires on a single axle, whichever is less. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds;
- (d) Except on the interstate highway system, a tolerance of not more than five percent (5%) per axle load shall be permitted before a carrier is deemed to have violated paragraph (c) of this subsection. The gross weight shall not exceed eighty thousand (80,000) pounds;
- (e) Truck tractor, semitrailer and trailer combinations, and other vehicle combinations may be operated only on the interstate system and on those parts of the federal aid highway system and the state-maintained system which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same.

(2) ***Vehicles with a gross weight of up to eighty thousand (80,000) pounds may travel on any public highway in the Commonwealth without obtaining a special permit, if the weight does not exceed any limits mandated by federal law or regulation or the weight limits for size and type of vehicle established under paragraph (c) of subsection (1) of this section, and if the vehicle is transporting any of the following:***

(a) Meats or agricultural crop products originating from a farm to first market;

(b) Livestock or poultry from their point of origin to first market;

(c) Primary forest products, including, but not limited to, sawdust, wood chips, bark, slabs, or logs originating from their points of origin to first market; or

(d) Supplies, materials, or equipment necessary to carry out a farming operation engaged in the production of agricultural crop products, meats, livestock, or poultry.

(3) Vehicles exclusively engaged in the transportation of motor vehicles, unmanufactured tobacco, or unmanufactured tobacco products may, on those highways which are a part of the state-maintained system and which have been designated by the secretary of the Transportation Cabinet by official order as safely allowing same, attain the maximum lengths as provided by subsection (1)(b) of this section, excluding the usual and ordinary bumper overhang of the transported vehicles;

(4)[~~(3)~~]Vehicles engaged exclusively in the transportation of farm or primary forestry products and registered under KRS 186.050(4) or 186.050(9) and vehicles engaged exclusively in the transportation of ready-mixed concrete shall be excluded from the axle weight provisions, except on interstate highways, and subject only to total gross weight provisions.

(5)[~~(4)~~]Vehicles registered pursuant to KRS 186.050(3)(b) and engaged in the transportation of primary forest products, including, but not limited to, vehicles transporting sawdust, wood chips, bark, slabs, or logs, may exceed the axle, or gross weight provisions as set forth in accordance with subsection (1)(c) of this section by a weight tolerance of ten percent (10%), except on the interstate highway system.

(6)[~~(5)~~]Vehicles designed for and engaged exclusively in the collection and hauling of refuse and registered under KRS 186.050(3)(b) shall be excluded from the axle weight provisions, except when in operation on the federal interstate system, and subject only to total gross weight provisions.

(7)[~~(6)~~]The secretary of the Transportation Cabinet may by order increase the weight and height limits prescribed by this chapter for motor vehicles while being operated exclusively on roads or highways being constructed, reconstructed, or repaired under contract with the Transportation Cabinet by the contractor or subcontractor, agent, or employee thereof.

(8)[~~(7)~~]Notwithstanding any other provisions of this chapter, the secretary of the Transportation Cabinet shall not authorize the operation of any vehicle or combination of vehicles, upon any part of the federal aid highway system or state parkway system, which exceeds the following dimensions and weights:

(a) Width, one hundred two (102) inches, including any part of the body or load;

(b) Weight, twenty thousand (20,000) pounds per single axle, with axles less than forty-two (42) inches apart to be considered as a single axle; thirty-four thousand (34,000) pounds on two (2) axles in tandem arrangement which are spaced forty-two (42) inches or more apart and less than ninety-six (96) inches apart; forty-eight thousand (48,000) pounds on three (3) axles which are spaced forty-two (42) inches or more apart and less than one hundred twenty (120) inches apart. The total gross weight of the vehicle and load shall not exceed eighty thousand (80,000) pounds. If any federal law or laws or regulations thereunder are hereafter enacted authorizing weights and dimensions in excess of those set out in paragraphs (a) and (b) of this subsection, the secretary of the Transportation Cabinet may by official order increase the maximum weights and dimensions but the increased weights and dimensions shall not exceed those set out in this section.

(9)[~~(8)~~]Except on the interstate highway system, vehicles engaged exclusively in the transportation of crushed stone, fill dirt and rock, soil, bulk sand, coal, phosphate muck, asphalt, concrete, solid waste, tankage or animal residues, livestock, and agricultural products shall be permitted a tolerance of ten percent (10%) of the axle weight provisions before a carrier is deemed to have violated paragraph (1)(c) of this section.

(10)[~~(9)~~] The Transportation Cabinet may promulgate administrative regulations pursuant to KRS Chapter 13A, relating to the implementation of 23 C.F.R. Part 658 as it relates to state-maintained or locally-maintained roads. The enforcement of the provisions of KRS 189.221 and this section on locally-maintained roads shall not be the responsibility of the law enforcement officers of the Transportation Cabinet, unless the head of the corresponding local government unit has requested, in writing, enforcement assistance from the Transportation Cabinet.

Section 2. KRS 189.221 is amended to read as follows:

A person shall not operate on any highway, except those highways designated by the secretary of transportation under the provisions of KRS 189.222, or those locally maintained highways under the provisions of ***subsection (10) of Section 1 of this Act***[~~KRS 189.222(9)~~] or KRS 189.230(4), ***or as provided in subsection (2) of Section 1 of this Act,*** any of the following trucks, trailers, manufactured homes, or vehicles:

(1) Any motor truck, semitrailer, trailer, manufactured home, or vehicle which exceeds eleven and one-half (11-1/2) feet in height or ninety-six (96) inches in width, including any part of the body or load;

(2) Any motor truck, except a semitrailer truck, which exceeds twenty-six and one half (26-1/2) feet in length, including any part of the body or load;

(3) Any semitrailer truck which exceeds thirty (30) feet in length, including any part of the body or load;

(4) Any truck, semitrailer truck, or truck and trailer unit which exceeds 36,000 pounds gross weight, including the load;

(5) Any truck, semitrailer truck, or tractor-trailer unit which exceeds a gross weight equal to the sum of six hundred (600) pounds per inch of the combined width of the tires upon which the vehicle may be propelled, but no more than thirty-six thousand (36,000) pounds.

(6) Notwithstanding the provisions of this section, any truck hauling building materials to a road construction project on a highway rated less than the maximum weight provided above may haul up to eighty thousand (80,000) pounds gross weight, including the load, without a permit. This privilege shall extend only to travel between the materials manufacturing site and the road construction project and shall be automatically rescinded upon completion of the project.

The Committee Substitute to **HB 563** is as follows:

HB 563, AN ACT relating to highway weight limits.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.271 is amended to read as follows:

(1) Notwithstanding any other provision of laws, the Transportation Cabinet may issue special permits to the owners, operators, or lessees of motor vehicles for the purpose of hauling industrial materials whose gross weight or dimensions, including vehicle and load, exceeds the limits prescribed by this chapter or which in other respects fail to comply with the requirements of this chapter. A separate permit shall be required for each vehicle. Such permits shall be issued for specified materials only and shall designate the portions of the state primary road system over which such vehicle may operate pursuant to the permit. Such permit shall be issued for a stated period of time ***determined by the applicant*** not to exceed ***three (3) years,***[~~one (1) year~~] and ***an existing permit may be renewed pending an inspection by the cabinet of the routes listed on the permit. Permits under this section*** shall be upon such terms and conditions as the cabinet may, in its discretion, require in the public interest.

(2) The cabinet may establish a system by which a current permit holder can be granted a new permit specifying different routes or materials without having to complete a new application or pay a separate application fee.

(3) The cabinet shall require, as a condition to the issuance of the permit, that the applicant pay a reasonable fee, to be fixed by the cabinet, and shall require that an applicant convicted under provisions of KRS 189.990(2)(a) two (2) or more times within a five (5) year period give bond, with approved surety, in an amount not to exceed six thousand dollars ($6,000) for each vehicle to indemnify the Commonwealth of Kentucky against damage to highways or bridges resulting from the operation of any motor vehicle under the authorization of such permit. ***A bond acquired under this subsection may be carried forward to another permit if the cabinet has not gone against the bond.***

(4) The operation of any motor vehicle in accordance with the terms of any such permit shall not constitute a violation of this chapter, if the operator has the permit, or a copy of it, authenticated as the cabinet may require, in his possession.

(5)[~~(2)~~]The cabinet shall not issue a permit under this section for a vehicle whose gross weight, including vehicle and load, exceeds the maximum gross weight as provided in KRS 189.222.

(6)[~~(3)~~]The cabinet shall not issue a permit under this section for a vehicle whose dimensions, including vehicle and load, exceed the maximum dimension as provided in KRS 189.222.

(7)[~~(4)~~]A person shall not operate a motor vehicle in violation of the terms and conditions of any permit issued by the cabinet pursuant to this section.

(8)[~~(5)~~]As used in this section, industrial materials shall mean all cargo, whether divisible or indivisible, which a motor vehicle transports in the usual and ordinary course of business and shall specifically include, but not be limited to, agricultural products, minerals, or natural resources transported by a motor vehicle.

(9)[~~(6)~~]The cabinet may:

(a) Exercise general supervision of the administering and enforcement of this section.

(b) ***Promulgate administrative***[~~Adopt rules and~~] regulations***, subject to the limitations of this section,*** with respect to the issuance of a permit, including, but not limited to, ***administrative***[~~rules and~~] regulations concerning the duration of permits and weight limits for various types of vehicles, materials, and highways.

(c) ***Promulgate administrative***[~~Adopt rules and~~] regulations with respect to the amount, terms and conditions of the bond and the sufficiency of the surety of such bond required by this section. ***The cabinet shall allow applicants not required to post a surety bond under subsection (3) of this section to self-insure to meet the bonding requirements of this section.***

(d) Issue, continue in effect, revoke, modify, or deny, under such conditions as the cabinet may prescribe, permits provided for under this section.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050,

KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, ***or*** 189.270[~~, or 189.271~~] shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) ***Any person who violates the provisions of Section 1 of this Act and is operating on a route designated on the permit shall be fined one hundred dollars ($100); otherwise, the penalties in paragraph (a) of this subsection shall apply.***

(c) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(d)[~~(c)~~]Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the

owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

HB 585, AN ACT relating to the operation of a motor vehicle.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 4 of this Act:

(1) "Applicant" means any person applying for an instruction permit or an operator's license;

(2) "Binocular vision" means visual acuity that is 20/200 or better in both eyes, with or without corrective lenses;

(3) "Bioptic telescopic device" means a two (2) focus optical system used to magnify distant objects by including a small telescope that is mounted in a spectacle lens in a manner to allow an unobstructed view of the horizontal visual field through a person's normal distance corrective lens;

(4) "Certified driver training program" means a program that provides and coordinates comprehensive assessment and training of driving skills and responses that emphasizes the vision, hearing, psychological, perceptual, orientation, and mobility skills of an applicant and that is certified by the department;

(5) "Combined visual acuity" means visual acuity attained by using both eyes together where a person has binocular vision;

(6) "Corrective lenses" means eyeglasses, contact lenses, and intraocular lenses, but does not mean a bioptic telescopic device;

(7) "Daytime driving restriction" means operation of a motor vehicle is restricted to the period of time from between thirty (30) minutes after sunrise and thirty (30) minutes before sunset. Under this restriction, driving during adverse weather conditions that significantly reduce the visibility of the roadway, other traffic, and traffic control devices shall be prohibited;

(8) "Department" means the Department for the Blind;

(9) "Monocular vision" means visual acuity that is 20/200 or better in only one (1) eye, with or without corrective lenses;

(10) "Restricted out-of-state driver" means a person who has been issued, by another state, a valid operator's license with a restriction requiring the use of a bioptic telescopic device;

(11) "Vision specialist" means a licensed ophthalmologist or optometrist;

(12) "Visual acuity" means the measure of a person's visual acuity based on the Snellen visual acuity scale; and

(13) "Visual field" means the area of physical space visible to the eye in a given fixed position.

SECTION 2. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) All applicants for an operator's license or instruction permit shall submit to a test of visual acuity and visual field at the time of application.

(2) Applicants whose visual acuity is 20/40 or better without corrective lenses shall not have a restriction placed on their driving privileges. Applicants whose visual acuity is 20/40 or better with corrective lenses shall have their driving privileges restricted to mandate the use of the corrective lenses. If an applicant fails to meet a 20/40 visual acuity standard, the State Police shall refer the applicant to a vision specialist for examination.

(3) An applicant referred to a vision specialist by the State Police under subsection (2) of this section whose visual acuity is 20/60 or better shall be eligible to test for an instruction permit or operator's license. If corrective lenses were prescribed by the vision specialist, the applicant's driving privileges shall be restricted to mandate the use of the corrective lenses. If an applicant fails to meet a 20/60 visual acuity standard, the State Police shall refer the applicant to the medical review board and the department.

(4) An applicant with a horizontal visual field of less than one hundred ten (110) degrees, regardless of the applicant's visual acuity, shall be referred by the State Police to the medical review board.

SECTION 3. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) The department shall screen all applicants referred to it by the State Police under subsection (3) of Section 2 of this Act. Applicants accepted to participate in a certified driver training program shall meet the following minimum vision requirements:

  (a) A distance visual acuity of 20/200 or better, with corrective lenses, in the applicant's better eye;

  (b) A visual field of at least one hundred twenty (120) degrees horizontally and eighty (80) degrees vertically in the same eye as used in paragraph (a) of this subsection;

  (c) A distance visual acuity of 20/60 or better using a bioptic telescopic device; and

  (d) No ocular diagnosis or prognosis that indicates a likelihood that significant deterioration of visual acuity or visual field to levels below the minimum standards outlined in this subsection will occur.

(2) Upon acceptance into a certified driver training program, an applicant shall be given an examination to test his or her knowledge of the motor vehicle laws of the Commonwealth. This examination may be taken orally. Upon successful

completion of this examination, the applicant shall be issued a temporary instruction permit, that shall be valid only when the applicant is accompanied by an employee of a certified driver training program. Temporary instruction permits issued under this section shall be valid for one (1) year from the date of issue.

(3) An applicant who successfully completes a certified driver training program shall be reexamined by a vision specialist upon completion of the program. The examination shall certify that the applicant continues to meet the visual acuity and visual field standards set forth in subsection (1) of this section.

(4) An applicant who successfully completes a certified driving training program and passes the visual reexamination required by subsection (3) of this section shall be eligible to take a comprehensive operator's license examination administered by the State Police. The operator's license examination shall include testing of the applicant's driving skills over a route specifically designed to test the applicant's competency using a bioptic telescopic device.

(5) An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall be required to take and pass a temporary instruction permit examination before being eligible to take the operator's license examination. An applicant who is a restricted out-of-state driver establishing residence in Kentucky shall not be required to complete a certified driver training program, but shall be required to take and pass the visual examination outlined in subsection (3) of this section before taking the operator's license examination.

(6) If an applicant or restricted out-of-state driver fails the operator's license examination three (3) times, he or she shall not be eligible to retake the examination until successfully completing additional training from a certified driver training program and obtaining an affidavit from the program director recommending that the applicant or restricted out-of-state driver be allowed to retake the examination.

(7) The Department for the Blind shall promulgate administrative regulations in accordance with KRS Chapter 13A to set standards for a certified driver training program and to otherwise carry out the provisions of this section.

SECTION 4. A NEW SECTION OF KRS 186.400 TO 186.640 IS CREATED TO READ AS FOLLOWS:

(1) The circuit clerk shall issue, to an applicant who successfully passes the operator's license examination outlined in subsection (4) of Section 3 of this Act, an operator's license with the following restrictions:

(a) Required use of a bioptic telescopic device;

(b) Restricted to daytime driving; and

(c) Any other conditions deemed appropriate by the medical review board, which shall review each case before a license is issued.

(2) A restriction to daytime driving in accordance with subsection (1) of this section shall be removed if the licensed driver:

(a) Drives for thirty-six (36) months without any at-fault accidents and without any license suspensions;

(b) Successfully completes additional evaluation and training specifically designed for night driving from a certified driver training program; and

(c) Passes a comprehensive night driving examination.

(3) An operator's license issued under Sections 1 to 4 of this Act shall be effective for one (1) year and shall expire on the last day of the birth month of the license holder. The license holder shall undergo a comprehensive visual examination by a vision specialist before a license can be renewed. If the vision specialist certifies that the conditions causing the visual impairment are stable, then the circuit clerk shall issue a renewal license. If the conditions causing the visual impairment are unstable or deteriorating, the license holder may be required to undergo additional testing as required by the medical review board before a renewal license may be issued.

Section 5. KRS 186.480 is amended to read as follows:

(1) The State Police may examine every unlicensed applicant for an operator's license except as otherwise provided in this section. The examination shall be held in the county where the applicant resides unless*:*

(a) The applicant is granted written permission by the circuit clerk of the county in which he resides to take the examination in another county, and the State Police agree to arrange for the examination in the other county*; or*

(b) The applicant is tested using a bioptic telescopic device.

(2) The examination *shall*~~[may]~~ include a test of the applicant's eyesight *to ensure compliance with the visual acuity standards set forth in Section 2 of this Act. The examination shall also include a test of the applicant's*~~[, his]~~ ability to read and understand highway signs regulating, warning and directing traffic, *the applicant's*~~[his]~~ knowledge of traffic laws and an actual demonstration of *the applicant's* ability to exercise ordinary and reasonable control in the operation of a motor vehicle. An applicant for a motorcycle operator's license shall be required to show his ability to operate a motorcycle, in addition to other requirements of this section. The provisions of this subsection shall not apply to an applicant who:

(a) At the time of application, holds a valid operator's license from another state, provided that state affords a reciprocal exemption to a Kentucky resident; or

(b) Is a citizen of the Commonwealth who has been serving in the United States military and has allowed his operator's license to expire.

(3)[~~(2)~~]Any person whose operator's license is denied, suspended, or revoked for cause shall apply for reinstatement at the termination of the period for which the license was denied, suspended, or revoked by submitting to the examination. The provisions of this subsection shall not apply to any person whose license was suspended for failure to meet the conditions described in KRS 186.411 when, within one (1) year of suspension, the driving privileges of such individuals are reinstated.

Section 6. KRS 186.444 is amended to read as follows:

(1) The Transportation Cabinet shall promulgate administrative regulations to establish a medical review board. The purpose of the medical review board shall be to receive cases relating to the ability of an applicant or holder of a motor vehicle operator's license to drive due to physical or mental disability which may affect or limit a person's ability to safely operate a motor vehicle.

(2) ***The medical review board shall also review all cases of those applicants who have successfully passed the operator's license examination to operate a motor vehicle using a bioptic telescopic device to determine any restrictions that it may place on these applicants in accordance with subsection (1) of Section 4 of this Act. The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the provisions of Section 4 of this Act.***

(3) The secretary shall appoint any number of physicians licensed in the Commonwealth to the medical review board. Not less than three (3) members shall be present in order to conduct an informal hearing. Each member shall receive two hundred dollars ($200) per day for attending meetings of the board and shall be reimbursed for necessary expenses incurred in attending meetings.

(4)[~~(3)~~]The cabinet shall promulgate administrative regulations regarding the procedures of the medical review board in conducting informal hearings.

(5)[~~(4)~~]The cabinet shall not promulgate administrative regulations for the purpose of creating tests or other criteria that might limit a person's ability to obtain or retain an operator's license because he may be considered too old to drive.

(6)[~~(5)~~]Any person aggrieved by a decision made as a result of an informal hearing conducted under authority of KRS 186.411 and this section may appeal, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 7. This Act takes effect January 1, 2001.

The Committee Amendment No. 1 to **HB 585** is as follows:

On page 5, line 6 after the semicolon "*;*" by inserting "***and***"; and

On page 5, line 7 by deleting "***; and***" and inserting in lieu thereof a period "*.*"; and

On page 5, by deleting lines 8 and 9 in their entirety; and

On page 5, line 24 by deleting the words "***medical review board***" and inserting in lieu thereof "***department***"; and

On page 6, beginning on line 27, by deleting Section 6 in its entirety; and

On page 7, line 26, by renumbering Section 7 as Section 6.

HB 691, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act:

(1) "Emergency situation" means any situation in which:

(a) A significant risk to life, health, or property exists or is believed to exist; or

(b) The only access of emergency vehicles into an area is obstructed; or

(c) A state of emergency has been declared by the Governor or by the chief executive officer of a local government;

(2) "Owner" means a person who holds legal title to a vehicle or who, pursuant to bona fide sale, has received physical possession of the vehicle subject to any applicable security interest;

(3) "Minor vehicle damage" means damage to a vehicle that does not prevent its operation; and

(4) "Safety officer" means a safety officer appointed by a city under KRS 83A.088.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The operator of any vehicle involved in an accident resulting only in minor vehicle damage shall immediately remove the vehicle from the roadway.

(2) A peace officer or safety officer may remove or caused to be removed from the roadway, without the consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway shall be removed by the most expeditious means available to clear the obstruction.

(3) In accidents that involve fatalities or serious injuries, the removal provisions of subsection (2) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed. In accidents that involve or are believed to involve a release of hazardous materials, the removal provisions of subsection (2) of this section shall not apply.

(4) (a) A peace or safety officer exercising authority granted by this section, or a governmental agency or organization employing a peace or safety officer exercising authority granted by this section, shall not be liable for damages or damage claims resulting from the removal of vehicles, cargo, or property from the roadway unless the removal was carried out in a reckless or wanton manner.

(b) An individual, business entity, or employee or agent of a business entity acting on behalf of any peace or safety officer exercising authority granted by this section shall not be liable for damages or damage claims resulting from the removal of vehicles, cargo, or property from the roadway unless the removal was carried out in a reckless or wanton manner.

(5) The owner of a vehicle, or the owner and carrier of cargo or property removed from the roadway under this section shall be responsible for the costs associated with the removal, and governmental agencies may recover for the loss of any public funds expended in the removal of a vehicle, cargo, or property from the roadway. Owners of real property shall not be liable for the costs of removal of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.

(6) A peace or safety officer, or a governmental agency or organization employing a peace or safety officer shall not be held liable for damage or damage claims that may result from the failure to exercise any authority granted under this section.

The Committee Substitute to **HB 691** is as follows:

HB 691, AN ACT relating to highways.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

As used in Section 2 of this Act:

(1) "Emergency situation" means any situation in which:

(a) A significant risk to life, health, or property exists or is believed to exist; or

(b) The only access of emergency vehicles into an area is obstructed; or

(c) A state of emergency has been declared by the Governor or by the chief executive officer of a local government;

(2) "Owner" means a person who holds legal title to a vehicle or who, pursuant to bona fide sale, has received physical possession of the vehicle subject to any applicable security interest; and

(3) "Safety officer" means a safety officer appointed by a city under KRS 83A.088.

SECTION 2. A NEW SECTION OF KRS CHAPTER 189 IS CREATED TO READ AS FOLLOWS:

(1) The operator of any vehicle involved in an accident in which the vehicle is still operable shall remove the vehicle from the travel lanes of the roadway to permit traffic to move without restriction. This subsection shall not apply to the operator of any vehicle involved in an accident who requires medical attention.

(2) A peace officer or safety officer may remove or cause to be removed from the roadway, without the consent of the owner or operator, any vehicle, cargo, or other property which is obstructing the roadway, creating or aggravating an emergency situation, or otherwise endangering public safety. Any vehicle, cargo, or other property obstructing the roadway shall be removed by the most expeditious means available to clear the obstruction.

(3) In accidents that involve fatalities or serious injuries, the removal provisions of subsection (2) of this section shall apply only after all medical assistance, fire supervision, and site investigation have been completed. In accidents that involve or are believed to involve a release of hazardous materials, the removal provisions of subsection (2) of this section shall not apply.

(4) (a) A peace or safety officer exercising authority granted by this section, or a governmental agency or organization employing a peace or safety officer exercising authority granted by this section, shall not be liable for damages or damage claims resulting from the removal of vehicles, cargo, or property from the roadway unless the removal was carried out in a negligent, reckless, or wanton manner.

(b) An individual, business entity, or employee or agent of a business entity acting on behalf of any peace or safety

officer exercising authority granted by this section shall not be liable for damages or damage claims resulting from the removal of vehicles, cargo, or property from the roadway unless the removal was carried out in a reckless or wanton manner.

(5) The owner or operator of a motor vehicle who is responsible for the accident causing the vehicle's cargo or property to have been removed from the roadway under this section shall be responsible for reasonable costs associated with the removal, including reasonable public funds expended by government agencies. Owners of real property shall not be liable for the costs of removal of trees, fences, structures, or other debris which fall into the roadway as a result of fire, severe weather, or other casualty.

(6) A peace or safety officer, or a governmental agency or organization employing a peace or safety officer shall not be held liable for damage or damage claims that may result from the failure to exercise any authority granted under this section.

HB 819, AN ACT relating to motor vehicle accident reports.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. All other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.

(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

(7) If a copy of an accident report is requested by a party described in subsection (5) of this section, it shall be made available to that party as soon as the accident report is prepared. Nothing in this section shall prohibit a law enforcement agency in this state from delivering a copy of an accident report to that requesting party before the report is sent to the Department of State Police.

HJR 122, A JOINT RESOLUTION directing the Transportation Cabinet to accept Fox Hollow Road in Clay County into the state-maintained highway system.

WHEREAS, Fox Hollow Road is a county connector road linking United States Route 421 to the federal prison in Manchester; and

WHEREAS, Fox Hollow Road carries hundreds of prison employees and visitors each day; and

WHEREAS, a state highway maintenance garage is also located on Fox Hollow Road; and

WHEREAS, in inclement weather Fox Hollow Road becomes extremely hazardous because it is not cleared regularly; and

WHEREAS, accessibility to the prison is vital to its safe operation and the safety and security of its employees and the surrounding community;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet shall accept Fox Hollow Road in Clay County into the state-maintained highway system.

Section 2. The Clerk of the House of Representatives shall transmit a copy of this resolution to the Secretary of the Transportation Cabinet and the District Highway Engineer in Manchester, Kentucky.

HR 130, A RESOLUTION urging the Federal Surface Transportation Board to reject the application to combine the Burlington Northern Santa Fe and the Canadian National rail systems.

WHEREAS, freight rail transportation is an essential part of the economy of the Commonwealth of Kentucky; and

WHEREAS, the freight railroad industry continues to implement recent mergers; and

WHEREAS, the freight railroad industry remains unsettled and requires time to stabilize from ongoing mergers; and

WHEREAS, the Burlington Northern Santa Fe and Canadian National Railroads have announced their intentions to combine their operations; and

WHEREAS, the timing of this merger proposal is not only premature but will likely trigger the final round of railroad industry consolidation at the most inopportune time; and

WHEREAS, shippers deserve a period of stability in the railroad industry during which railroads concentrate on delivering all benefits of prior consolidations and meeting shipper expectations; and

WHEREAS, a significant portion of America's freight rail system could be Canadian controlled should this transaction be approved; and

WHEREAS, several organizations including the United Transportation Union and Chemical Manufacturers Association have announced their opposition to the proposed Burlington Northern Santa Fe and Canadian National merger; and

WHEREAS, jobs and industries throughout the Commonwealth of Kentucky could be negatively affected by the Burlington Northern Santa Fe and Canadian National proposal at a time when Kentucky is already facing a budget shortfall with declining coal severance tax revenues; and

WHEREAS, the Burlington Northern Santa Fe and Canadian National proposal would create single line service from the Powder River Basin coal fields to northern and eastern coal markets, placing Kentucky coal producers at a competitive disadvantage;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The members of the House of Representatives, both individually and collectively, urge the Federal Surface Transportation Board to reject any application by the Burlington Northern Santa Fe and the Canadian National rail systems to combine their systems under common control as not being in the public interest at this time.

Section 2. The Clerk of the House of Representatives is directed to transmit a copy of this Resolution to the Honorable Vernon A. Williams, Secretary, Federal Surface Transportation Board, 1925 K Street NW, Washington, DC 20423. The Clerk is further directed to reference Finance Docket #33842 when transmitting this Resolution.

The Committee on Education reported **HB 382,** with Committee Substitute attached thereto, **HB 399,** with Committee Amendment attached thereto, **HB 440,** with Committee Substitute attached thereto, **HB 668,** with Committee Amendment attached thereto, **HB 681, HB 689, HCR 82,** and **HJR 101** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 382, AN ACT relating to school fundraising activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.290 is amended to read as follows:

(1) No student shall be compelled to solicit or meet any kind of quota in a fundraising activity. Solicitations by students shall be on a completely voluntary basis and no grade changes or any other sanctions shall be imposed for refusal or failure of a student to engage in any solicitations or other fundraising activity. No public school shall promote or engage in a schoolwide fundraising project without the prior approval of the local board of education.

(2) ***Fundraising activities by an elementary or middle school student organized or sanctioned by a public school shall be limited to activities that take place on school grounds.***

(3) Fundraising activities by a high school student organized or sanctioned by a public school may take place off school grounds only with prior written parental consent.

(4) A business or organization sanctioned by a public school to assist in school fundraising activities shall disclose to the school the percentage of total funds raised that the school is to receive. This percentage shall be no less than sixty percent (60%) of total funds raised.

(5) Nothing in this section shall prohibit student participation in classes in which salesmanship is an integral part of the prescribed curriculum.

The Committee Substitute to **HB 382** is as follows:

HB 382, AN ACT relating to school fundraising activities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.290 is amended to read as follows:

(1) No student shall be compelled to solicit or meet any kind of quota in a fundraising activity. Solicitations by students shall be on a completely voluntary basis and no grade changes or any other sanctions shall be imposed for refusal or failure of a student to engage in any solicitations or other fundraising activity. No public school shall promote or engage in a schoolwide fundraising project without the prior approval of the local board of education.

(2) ***Fundraising activities by an elementary or middle school student organized or sanctioned by a public school shall not require door-to-door sales or solicitations by the student.***

(3) Fundraising activities by a high school student organized or sanctioned by a public school may take place off school grounds only with prior written parental consent.

(4) A business or organization sanctioned by a public school to assist in school fundraising activities shall disclose to the school the percentage of total funds raised that the school is to receive.

(5) Nothing in this section shall prohibit student participation in classes in which salesmanship is an integral part of the prescribed curriculum.

HB 399, AN ACT relating to free postsecondary tuition for disabled law enforcement officers, firefighters, and volunteer firefighters.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) Any person who is a law enforcement officer, firefighter, or volunteer firefighter and is permanently and totally disabled while in active service or in training for active service, shall not be required to pay any matriculation or tuition fee upon his or her admission to any state-supported university, community college, or vocational training institution for a period not in excess of thirty-six (36) months in order to obtain a diploma, nor in excess of the lesser number of months required for a certificate of completion.

(2) For a law enforcement officer, firefighter, or volunteer firefighter to be entitled to benefits under this section, the disabled individual shall be rated permanently and totally disabled for pension purposes or one hundred percent (100%) disabled for compensation purposes by the Kentucky Justice Cabinet, the appropriate city or county law enforcement agency that employed the disabled individual, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes.

(3) In the absence of certification of permanent and total disability by the Kentucky Department of Workers' Claims, the Kentucky Justice Cabinet, the appropriate local law enforcement agency, the administrative agency for the fire department or fire protection district recognized for funding under KRS 95A.262, or the administrative agency having jurisdiction over any paid firefighters of all counties and cities of all classes, medical evidence showing permanent and total disability may be accepted, if this evidence is signed by a physician licensed to practice or an official of an accredited medical hospital.

(4) To entitle a disabled law enforcement officer, firefighter, or volunteer firefighter to benefits under this section, the disabled person shall have been a resident of the Commonwealth of Kentucky upon becoming a law enforcement officer, firefighter, or volunteer firefighter.

The Committee Amendment No. 1 to **HB 399** is as follows:

On page 2, after line 5 by inserting the following:

"*(5) In the event a permanently and totally disabled law enforcement officer, firefighter, or volunteer firefighter applies and meets the conditions of eligibility for vocational rehabilitation services under KRS Chapter 151B, he or she shall be eligible to receive a supplemental grant to ensure the cost of tuition and fees are covered in full at any public postsecondary education institution to which he or she has been admitted.*

- *(a) The supplemental tuition grant program shall provide the difference between the amount awarded by the vocational rehabilitation services under KRS 151B.190 and the rate of tuition and fees charged by the postsecondary education institution of choice.*
- *(b) Upon enrollment at a public postsecondary education institution, the disabled law enforcement officer, firefighter, or volunteer firefighter shall be entitled to receive supplemental tuition and fee assistance under this program for a period up to three (3) academic years or six (6) academic terms.*
- *(c) The supplemental tuition grant program shall be administered by the Department of Vocational Rehabilitation in the Cabinet for Workforce Development.*".

HB 440, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Section 2 of this Act, unless the context otherwise requires, "abstinence education" means an educational or motivational program with course material and instruction that:

- *(a) Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;*
- *(b) Teaches abstinence from sexual activity outside of marriage as the expected standard for all school age children;*
- *(c) Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;*
- *(d) Teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity;*
- *(e) Teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;*
- *(f) Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;*
- *(g) Teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and*
- *(h) Teaches the importance of attaining self-sufficiency before engaging in sexual activity.*

(2) Abstinence education shall be the standard for any sex-related education taught in public schools. Health education or family life curricula and learning materials of a public school relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of-wedlock pregnancies shall be age appropriate and shall be based on the principles of abstinence education.

(3) All curriculum and learning materials for a course with a curriculum relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of-wedlock pregnancies, shall be available for review by the parent or legal guardian of a student at least thirty (30) days prior to the beginning of the course.

(4) The demonstration or distribution of contraceptives, including condoms and other devices, shall not take place or be made available on school property.

(5) Courses of study developed by the Kentucky Department of Education for health education relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of wedlock pregnancy shall be age appropriate, and shall identify a common curriculum content based on the principles of abstinence education.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires, "abstinence education" shall have the same meaning as in Section 1 of this Act.

(2) The Cabinet for Health Services shall use a minimum of ninety-five percent (95%) of federal funds and state matching funds appropriated for abstinence education under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, to fund school or community-based grants to institute abstinence education programs, subject to the approval of the

federal agency responsible for administering the program. The remaining balance of funds shall be used by the Cabinet for Health Services for the administration of the program and for the evaluation of the effectiveness of the abstinence education programs receiving grants.

(3) A grant application shall include a written assurance from the school or organization that the curriculum, learning materials, and teaching practice of the proposed program are based on the principles of abstinence education.

(4) The Cabinet for Health Services shall provide to all public school districts and local health departments information regarding the availability of abstinence education funds, the requirements for receiving funds, and the grant application process.

(5) A local public health department may submit a grant application developed in partnership with public schools or school districts, other public and private community agencies, organizations, and religious institutions.

The Committee Substitute to **HB 440** is as follows:

HB 440, AN ACT relating to public health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section and Section 2 of this Act, unless the context otherwise requires, "abstinence education" means an educational or motivational program with course material and instruction that:

(a) Has as its exclusive purpose, teaching the social, psychological, and health gains to be realized by abstaining from sexual activity;

(b) Teaches abstinence from sexual activity outside of marriage as the expected standard for all school age children;

(c) Teaches that abstinence from sexual activity is the only certain way to avoid out-of-wedlock pregnancy, sexually transmitted diseases, and other associated health problems;

(d) Teaches that a mutually faithful monogamous relationship in the context of marriage is the expected standard of human sexual activity;

(e) Teaches that sexual activity outside of the context of marriage is likely to have harmful psychological and physical effects;

(f) Teaches that bearing children out-of-wedlock is likely to have harmful consequences for the child, the child's parents, and society;

(g) Teaches young people how to reject sexual advances and how alcohol and drug use increases vulnerability to sexual advances; and

(h) Teaches the importance of attaining self-sufficiency before engaging in sexual activity.

(2) Abstinence education shall be the primary standard for any sex-related education taught in public schools. Health education or family life curricula and learning materials of a public school relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of-wedlock pregnancies shall be age appropriate and shall be based primarily on the principles of abstinence education.

(3) All curriculum and learning materials for a course with a curriculum relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of-wedlock pregnancies, shall be available for review by the parent or legal guardian of a student at least thirty (30) days prior to the beginning of the course.

(4) The demonstration or distribution of contraceptives, including condoms and other devices, shall not take place or be made available on school property.

(5) Courses of study developed by the Kentucky Department of Education for health education relating to human reproduction, sexual activity, sexually transmitted diseases, or avoiding out-of wedlock pregnancy shall be age appropriate, and shall identify a common curriculum content based primarily on the principles of abstinence education.

SECTION 2. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, unless the context otherwise requires, "abstinence education" shall have the same meaning as in Section 1 of this Act.

(2) The cabinet shall use federal funds and state matching funds appropriated for abstinence education under Title V of the Federal Social Security Act, 42 U.S.C. sec. 710, subject to the approval of the federal agency responsible for administering the program, in the following manner:

(a) Ninety-five percent (95%) of funds shall be available to fund school or community-based grants to institute abstinence education programs;

(b) *In the event that funds remain after all qualified school or community-based programs have received the funds requested, the cabinet shall use the remaining funds to promote abstinence education by other means, including, but not limited to, an advertising and marketing campaign; and*

(c) *Five percent (5%) of funds shall be used for the administration of the program and for the evaluation of the effectiveness of the abstinence education programs receiving grants.*

(3) *A grant application shall include a written assurance from the school or organization that the curriculum, learning materials, and teaching practice of the proposed program are based primarily on the principles of abstinence education.*

(4) *The Cabinet for Health Services shall provide to all public school districts and local health departments information regarding the availability of abstinence education funds, the requirements for receiving funds, and the grant application process.*

(5) *A local public health department may submit a grant application developed in partnership with public schools or school districts, other public and private community agencies, organizations, and religious institutions.*

HB 668, AN ACT relating to school finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 160 IS CREATED TO READ AS FOLLOWS:

(1) *The local district superintendent shall appoint a finance officer who shall be responsible for the cash, investment, and financial management of the school district.*

(2) *The school finance officer shall be required to complete forty-two (42) hours of continuing education every two (2) years from a provider approved by the Department of Education.*

Section 2. KRS 157.320 is amended to read as follows:

As used in KRS 157.310 to 157.440, unless the context otherwise requires:

(1) "Average daily attendance" means the aggregate days attended by pupils in a public school, adjusted for weather-related low attendance days if applicable, divided by the actual number of days the school is in session, after the five (5) days with the lowest attendance have been deducted.

(a) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was suspended during a school year, the number of days the pupil was suspended, not to exceed ten (10) days in total for the school year; and

(b) Aggregate days shall include, in addition to the aggregate number of days attended by a pupil who was expelled for behavioral problems, the number of days the pupil was expelled up to a total of one hundred seventy-five (175) days. This total may extend into the next school year and shall be counted in the average daily attendance for the next year;

(2) "Base funding level" means a guaranteed amount of revenue per pupil to be provided for each school district, to be used for regular operating and capital expenditures;

(3) "Board" means the board of education of any county or independent school district;

(4) "District" means any school district as defined by law;

(5) "Elementary school" means a school consisting of the primary school program through grade eight (8) as defined in KRS 158.030, or any appropriate combination of grades within this range, as determined by the plan of organization for schools authorized by the district board;

(6) "Support Education Excellence in Kentucky" means the level of educational services and facilities which is to be provided in each district from the public school fund;

(7) "Kindergarten full-time equivalent pupil in average daily attendance" means each kindergarten pupil counted no more than one-half (1/2) day in the aggregate days attended by kindergarten pupils in a public school divided by the actual number of days school is in session after the five (5) days with the lowest attendance have been deducted. Kindergarten is the entry level of the primary program and shall be provided no less than the equivalent of one-half (1/2) day, five (5) days a week for a full school year for each kindergarten pupil;

(8) "Public school fund" means the fund created by KRS 157.330 for use in financing education in public elementary and secondary schools;

(9) "Administrative regulations of the Kentucky Board of Education" means those regulations which the Kentucky Board of Education may adopt upon the recommendation and with the advice of the ***commissioner of education***[~~chief state school officer~~]. The ***commissioner of education***[~~chief state school officer~~] shall recommend administrative regulations necessary for carrying out the purposes of KRS 157.310 to 157.440;

(10) "Experience" means employment as a teacher, other than as a substitute or nursery school teacher, for a minimum of one

hundred and forty (140) days during a school year in a public or nonpublic elementary or secondary school or college or university that is approved by the public accrediting authority in the state in which the teaching duties were performed. A teacher who is employed by a board for at least one hundred forty (140) days of a school year and who performs teaching duties for the equivalent of at least seventy (70) full school days during that school year, regardless of the schedule on which those duties were performed, shall be credited with one (1) year of experience. A teacher who is employed by a board for at least one hundred forty (140) days during each of two (2) school years and who performs teaching duties for the equivalent of at least seventy (70) full school days during those years shall be credited with one (1) year of experience. No more than one (1) year of experience shall be credited for the performance of teaching duties during a single school year;

(11)[~~ "Salary schedule summary" means the summary of all salaries paid teachers by the board from the single salary schedule. Teachers shall be grouped by training and experience and by source of funds;~~

~~(12)~~] "Secondary school" means a school consisting of grades seven (7) through twelve (12), or any appropriate combination of grades within this range as determined by the plan of organization for schools authorized by the district board. When grades seven (7) through nine (9) or ten (10) are organized separately as a junior high school, or grades ten (10) through twelve (12) are organized separately as a senior high school and are conducted in separate school plant facilities, each shall be considered a separate secondary school for the purposes of KRS 157.310 to 157.440;

(12)[~~(13)~~] "Single salary schedule" means a schedule adopted by a local board from which all teachers are paid for one hundred eighty-five (185) days and is based on training, experience, and such other factors as the Kentucky Board of Education may approve and which does not discriminate between salaries paid elementary and secondary teachers. If the budget bill contains a minimum statewide salary schedule, no teacher shall be paid less than the amount specified in the biennial budget salary schedule for the individual teacher's educational qualifications and experience;

(13)[~~(14)~~] "Teacher" means any regular or special teacher, principal, supervisor, superintendent, assistant superintendent, librarian, director of pupil personnel, or other member of the teaching or professional staff engaged in the service of the public elementary and secondary school for whom certification is required as a condition of employment;

(14)[~~(15)~~] "Percentage of attendance" means the aggregate days attended by pupils in a public school for the school year divided by the aggregate days' membership of pupils in a public school for the school year;

(15)[~~(16)~~] "Middle school" means a school consisting of grades five (5) through eight (8) or any appropriate combination of grades as determined by the plan of organization for schools authorized by the district board; and

(16)[~~(17)~~] "Weather-related low attendance day" means a school day on which the district's attendance falls below the[~~ percentage of~~] average daily attendance for the prior year due to inclement weather. The district shall submit a request to substitute the prior year's average daily attendance for its attendance on up to ten (10) designated days, along with documentation that the low attendance was due to inclement weather, for approval by the ***commissioner of education***[~~Kentucky Board of Education~~] in accordance with ***Kentucky Board of Education***[~~its~~] administrative regulations.

Section 3. KRS 157.360 is amended to read as follows:

(1) In determining the cost of the program to support education excellence in Kentucky, the statewide guaranteed base funding level, as defined in KRS 157.320, shall be computed by dividing the amount appropriated for this purpose by the prior year's statewide average daily attendance.

(2) Each district shall receive an amount equal to the base funding level for each pupil in average daily attendance in the district in the previous year. Each district's base funding level shall be adjusted by the following factors:

  (a) The number of at-risk students in the district. At-risk students shall be identified as those approved for the free lunch program under state and federal guidelines. The number of at-risk students shall be multiplied by a factor to be established by the General Assembly. Funds generated under this paragraph may be used to pay a hazardous duty pay supplement as determined by the local board of education to the teachers who work in alternative programs with students who are violent or assaultive;

  (b) The number and types of exceptional children in the district as defined by KRS 157.200.[~~ No later than October 1, 1993,~~] Specific weights for each category of exceptionality[~~ shall be developed by the Department of Education and~~] shall be used in the calculation of the add-on factor for exceptional children[~~. Prior to the development of the necessary weights, the General Assembly shall determine the costs associated with the education of exceptional children based on the count of pupils with different exceptionalities, an appropriate pupil-teacher ratio, and total per-pupil costs~~]; and

  (c) Transportation costs. The per-pupil cost of transportation shall be calculated as provided by KRS 157.370.[~~ No later than October 1, 1991, the Office of Education Accountability's Division of School Finance shall examine the components of the current system for allocating transportation funds, and recommend any needed changes to the General Assembly, the Governor, and the State Board for Elementary and Secondary Education.~~] Districts which contract to furnish transportation to students attending nonpublic schools may adopt any payment formula which assures that no public school funds are used for the transportation of nonpublic students.

(3) The program to support education excellence in Kentucky shall be fully implemented by the 1994-95 school year.~~[No district shall receive an annual increase in state funds of less than eight percent (8%) for 1990-91 and five percent (5%) in 1991-92 or more than twenty-five percent (25%) in either year.]~~

(4) (a) Except for those schools which have implemented school-based decision making, the chief state school officer shall enforce maximum class sizes for every academic course requirement in all grades except in vocal and instrumental music, and physical education classes. Except as provided in subsection (5) of this section, the maximum number of pupils enrolled in a class shall be as follows:

1. Twenty-four (24) in primary grades (kindergarten through third grade);
2. Twenty-eight (28) in grade four (4);
3. Twenty-nine (29) in grades five (5) and six (6);
4. Thirty-one (31) in grades seven (7) to twelve (12);

(b) Except for those schools which have implemented school-based decision making, class size loads for middle and secondary school classroom teachers shall not exceed the equivalent of one hundred fifty (150) pupil hours per day.

(c) The chief state school officer, upon approval of the Kentucky Board of Education, shall adopt administrative regulations for enforcing this provision. These administrative regulations shall include procedures for a superintendent to request an exemption from the Kentucky Board of Education when unusual circumstances warrant an increased class size for an individual class. A request for an exemption shall include specific reasons for the increased class size with a plan for reducing the class size prior to the beginning of the next school year. A district shall not receive in any one (1) year exemptions for more classes than enroll twenty percent (20%) of the pupils in the primary grades and grades four (4) through eight (8).

(d) In all schools the chief state school officer shall enforce the special education maximum class sizes set by administrative regulations adopted by the Kentucky Board of Education. A superintendent may request an exemption pursuant to paragraph (c) of this subsection. A local school council may request a waiver pursuant to KRS 156.160(2). An exemption or waiver shall not be granted if the increased class size will impede any exceptional child from achieving his individual education program in the least restrictive environment.

(5) In grades four (4) through six (6) with combined grades, the maximum class size shall be the average daily attendance upon which funding is appropriated for the lowest assigned grade in the class. There shall be no exceptions to the maximum class size for combined classes. In combined classes other than the primary grades, no ungraded students shall be placed in a combined class with graded students. In addition, there shall be no more than two (2) consecutive grade levels combined in any one (1) class in grades four (4) through six (6). However, this shall not apply to schools which have implemented school-based decision making.

(6) If a local school district, through its admission and release committee, determines that an appropriate program in the least restrictive environment for a particular child with a disability includes either part-time or full-time enrollment with a private school or agency within the state or a public or private agency in another state, the school district shall count as average daily attendance in a public school the time that the child is in attendance at the school or agency, contingent upon approval by the chief state school officer.

(7) Pupils attending a center for child learning and study established under an agreement pursuant to KRS 65.210 to 65.300 shall, for the purpose of calculating average daily attendance, be considered as in attendance in the school district in which the child legally resides and which is party to the agreement. For purposes of subsection (1) of this section, teachers who are actually employees of the joint or cooperative action shall be considered as employees of each school district which is a party to the agreement.

(8) Program funding shall be increased when the average daily attendance in any district for the first two (2) months of the current school year is greater than the average daily attendance of the district for the first two (2) months of the previous school year. The program funds allotted the district shall be increased by the percent of increase. The average daily attendance in kindergarten is the kindergarten full-time equivalent pupils in average daily attendance.

(9) If the average daily attendance for the current school year in any district decreases by ten percent (10%) or more than the average daily attendance for the previous school year, the average daily attendance for purposes of calculating program funding for the next school year shall be increased by an amount equal to two-thirds (2/3) of the decrease in average daily attendance. If the average daily attendance remains the same or decreases in the succeeding school year, the average daily attendance for purposes of calculating program funding for the following school year shall be increased by an amount equal to one-third (1/3) of the decrease for the first year of the decline.

(10) If the percentage of attendance of any school district shall have been reduced more than two percent (2%) during the previous school year, the program funding allotted the district for the current school year shall be increased by the difference in the percentage of attendance for the two (2) years immediately prior to the current school year less two percent (2%).

(11) (a) Instructional salaries for vocational agriculture classes shall be~~[allotted]~~ for twelve (12) months per year. Vocational agriculture teachers shall be responsible for the following program of instruction during the time period beyond the regular school term established by the local board of education: supervision and instruction of students in agriculture experience programs; group and individual instruction of farmers and agribusinessmen; supervision of student members of agricultural organizations who are involved in leadership training or other activity required by state or federal law; or any program of vocational agriculture established by the Division of Secondary Vocational Education in the Department of Education.~~[Salary allotments for vocational agriculture teachers shall be computed by proportionately increasing the salary schedule allocation based on the regular one hundred eighty-five (185) day school year for teachers with comparable qualifications and experience.]~~ During extended employment, no vocational agriculture teacher shall receive salary on a day that the teacher is scheduled to attend an institution of higher education class which could be credited toward meeting any certification requirement.

(b) Each teacher of agriculture employed shall submit an annual plan for summer program to the local school superintendent for approval. The summer plan shall include a list of tasks to be performed, purposes for each task, and time to be spent on each task. Approval by the local school superintendent shall be in compliance with the guidelines developed by the State Department of Education. The supervision and accountability of teachers of vocational agriculture's summer programs shall be the responsibility of the local school superintendent. The local school superintendent shall submit to the chief state school officer a completed report of summer tasks for each vocational agriculture teacher. Twenty percent (20%) of the approved vocational agriculture programs shall be audited annually by the State Department of Education to determine that the summer plan has been properly executed.

~~[(c) For the 1990-91 and the 1991-92 school years, an add-on appropriation shall be made to local school districts which are operating secondary vocational education programs. The amount provided in the budget shall be allocated on a per-pupil basis and shall be used to meet the higher per student cost of operating vocational education programs.]~~

(12) (a) In allotting program funds for home and hospital instruction, statewide guaranteed base funding, excluding the capital outlay, shall be allotted for each child in average daily attendance in the prior school year who has been properly identified according to Kentucky Board of Education administrative regulations. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported monthly on forms provided by the Department of Education; and

(b) Pursuant to administrative regulations of the ***Kentucky Board***~~[Department]~~ of Education, local school districts shall be reimbursed for home and hospital instruction for pupils unable to attend regular school sessions because of short term health impairments. A reimbursement formula shall be established by administrative regulations to include such factors as a reasonable per hour, per child allotment for teacher instructional time, with a maximum number of funded hours per week, a reasonable allotment for teaching supplies and equipment, and a reasonable allotment for travel expenses to and from instructional assignments, but the formula shall not include an allotment for capital outlay. Attendance shall be calculated pursuant to KRS 157.270 and shall be reported ***annually***~~[monthly]~~ on forms provided by the Department of Education.

(13) Except for those schools which have implemented school-based decision making and the school council has voted to waive this subsection, kindergarten aides shall be provided for each twenty-four (24) full-time equivalent kindergarten students enrolled.

Section 4. KRS 157.390 is amended to read as follows:

(1) (a) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in rank as follows:

Rank I. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education and who have earned thirty (30) semester hours of approved graduate work or equivalent continuing education; those teachers who, as of September 1, 1962, were included in Rank I, having earned twenty-four (24) semester hours of additional approved graduate work; and those teachers who have met the requirements for Rank II and hold current certification of the National Board for Professional Teaching Standards.

Rank II. Those holding regular certificates and who have a master's degree in a subject field approved by the Education Professional Standards Board or equivalent continuing education.

Rank III. Those holding regular certificates and who have an approved four (4) year college degree or the equivalent.

Rank IV. Those holding certificates and who have ninety-six (96) to one hundred twenty-eight (128) semester hours of approved college training or the equivalent.

Rank V. Those holding certificates and who have sixty-four (64) to ninety-five (95) semester hours of approved college training or the equivalent.

(b) In determining ranks, the chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers who hold valid certificates in the respective ranks according to approved college semester hours of credit or equivalent continuing education. The chief state school officer, in defining preparation for certain types of vocational teachers as equivalent to college training, shall give consideration to apprenticeship training and industrial experience.

(c) Nothing in this subsection shall allow the Kentucky Board of Education by regulation to reclassify downward any teachers currently in Ranks I or II.

(2) The chief state school officer, under administrative regulations of the Kentucky Board of Education, shall classify teachers in each rank by their years of experience for purposes of the state teacher salary schedule as follows:

1. Zero (0) to three (3) years;
2. Four (4) to nine (9) years;
3. Ten (10) to fourteen (14) years;
4. Fifteen (15) to nineteen (19) years; and
5. Twenty (20) or more years.

(3) ~~[(a)]~~The rank and experience of the teacher shall be determined on September 15.

~~[(b) The amount to be included in each school year in the base funding level of a district for teachers' salaries shall be based on the categories of experience in subsection (2) of this section.]~~

(4) The amount to be included in the base funding level for capital outlay shall be determined by multiplying the average daily attendance by the amounts set forth in the biennial budget.

(5) The amount to be included in the public school fund of each district for transportation shall be determined in accordance with the provisions of KRS 157.370.

(6) The total amount of money distributable to each district from the public school fund shall ***include the base funding per pupil in average daily attendance, an amount for at-risk students, an amount for the types and numbers of students with disabilities, an amount for students served in home and hospital settings, and***~~[be the sum of]~~ the allotments in subsections~~[(3),]~~ (4), and (5) of this section, less the amount of local tax revenues generated for school purposes, up to a maximum equivalent local rate of thirty cents ($0.30) as defined by KRS 157.615(6).

(7) The Kentucky Board of Education shall create a Kentucky professional compensation plan. The plan shall be designed to compensate all teachers at adequate and competitive salary levels throughout their teaching careers. The plan shall establish progressive salary levels with advancement opportunities based upon the professional skills of the teacher and include education, rank, years of teaching service, related duties, specialized training, nonteaching experience, length of work year, performance, and any other professionally-recognized factors which the board considers relevant. The plan shall be developed during the 1992-94 biennium. Development work shall be conducted by Department of Education staff with support from recognized compensation experts, and staff from the Legislative Research Commission, the Office of Education Accountability, and the Governor's Office of Policy and Management. Upon approval by the Kentucky Board of Education, the new plan and its fiscal impact shall be submitted to the General Assembly.

Section 5. KRS 157.410 is amended to read as follows:

For each school year the Finance and Administration Cabinet, on the certification of the chief state school officer, shall draw warrants on the State Treasurer for the amount of the public school fund due each district. Checks shall be issued by the State Treasurer and transmitted to the Department of Education ***or electronically transferred*** for distribution to the proper officials of the school districts when the districts have fully complied with the school laws and administrative regulations of the Kentucky Board of Education. The chief state school officer shall determine on or before August 15 of each year the tentative allotment of school funds to which each district is entitled under the provisions of KRS 157.310 to 157.440. On July 1, August 1, and September 1, of each fiscal year, one-twelfth (1/12) of the prior year's allotment minus the capital outlay shall be paid each school district. On the first of each month thereafter until the final calculation is completed, one-twelfth (1/12) of each district's share of the tentative calculation ***minus capital outlay***~~[for instructional salaries, current expenses, and transportation of the public school fund]~~ shall be distributed. On or before May 1 of each year the chief state school officer shall determine the exact amount of the public common school fund to which each district is entitled and the remainder of the amount due each district for the year shall be distributed in equal installments beginning the first month after completion of final calculation and for each successive month thereafter.~~[Capital outlay shall be made in two (2) payments. The first, on or before October 1, shall be one-half (1/2) of the amount calculated on the tentative allocation for capital outlay. The balance due shall be paid on or before May 1.]~~

Section 6. KRS 160.470 is amended to read as follows:

(1)~~[Each district board of education shall prepare a general school budget in formats prescribed and furnished by the Kentucky Board of Education, showing the amount of money needed for current expenses, debt service, capital outlay, and other necessary expenses of the schools during the succeeding fiscal year, the estimated total amount that will be received from the common school fund and other sources, the assessed valuation of property subject to~~

~~local taxation in the school district furnished as provided in subsection (3) of KRS 160.460, an estimate made by the Revenue Cabinet of public service company assessments and assessments of other property in the school district not furnished under the provisions of subsection (3) of KRS 160.460, and the amount that will be needed to be raised by local taxation, including the rate of levy necessary to raise such an amount.~~

~~(2)~~] (a) Notwithstanding any statutory provisions to the contrary,[~~ no district board of education shall levy a general tax rate, voted general tax rate, or voted building tax rate for 1979-80 which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the maximum general tax rate, voted general tax rate, or voted building tax rate, respectively, that could have been levied in 1978-79, to the 1978-79 assessment, except as provided in subsection (12) of this section and KRS 157.440. In succeeding years,~~] no district board of education shall levy a general tax rate[~~, a voted general tax rate, or a voted building tax rate~~] which will produce more revenue, exclusive of revenue from net assessment growth as defined in KRS 132.010, than would be produced by application of the general tax rate[~~, maximum voted general tax rate, or maximum voted building tax rate, respectively,~~] that could have been levied in the preceding year to the preceding year's assessment, except as provided in subsection *(9)*[~~(12)~~] of this section and KRS 157.440.

(b) If an election is held as provided for in KRS 132.017 and the question should fail, such failure shall not reduce the ". . .general tax rate[~~, maximum voted general tax rate, or maximum voted building tax rate, respectively,~~] that could have been levied in the preceding year. . .," referred to in subsection *(1)*[~~(2)~~](a) of this section, for purposes of computing the general tax rate[~~, voted general tax rate, or voted building tax rate~~] for succeeding years.

In the event of a merger of school districts, the limitations contained in this section shall be based upon the combined revenue of the merging districts, as computed under the provisions of this section.

(2)[~~(3)~~]No district board of education shall levy a general tax rate[~~, voted general tax rate, or voted building tax rate~~] within the limits imposed in subsection *(1)*[~~(2)~~] of this section which respectively exceeds the compensating tax rate defined in KRS 132.010, except as provided in subsection *(9)*[~~(12)~~] of this section, KRS 157.440, and KRS 157.621, until the district board of education has complied with the provisions of subsection *(7)*[~~(10)~~] of this section.

(3)[~~(4)~~]***Upon receipt of property assessments from the Revenue Cabinet, the commissioner of education***[~~The chief state school officer~~] shall certify the following to each district board of education[~~, by June 30 of each year~~]:

(a) The general tax rate[~~, voted general tax rate, or voted building tax rate~~] that a district board of education could levy under the provisions of subsection *(1)*[~~(2)~~] of this section, and the amount of revenue expected to be produced[~~ by each~~];

(b) The compensating tax rate as defined in KRS 132.010 for a district's general tax rate[~~, voted general tax rate, or voted building tax rate, and~~] the amount of revenue expected to be produced[~~ by each~~];

(c) The general tax rate[~~, voted general tax rate, or voted building tax rate~~] which will produce, respectively, no more revenue from real property, exclusive of revenue from new property, than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, and the amount of revenue expected to be produced[~~ by each~~].

(4)[~~(5)~~]Upon completion of action on property assessment data, the Revenue Cabinet shall submit certified property assessment data as required in KRS 133.125 to the chief state school officer.

(5)[~~(6)~~]Within thirty (30) days after the district board of education has received its assessment data, ***the rates levied***[~~three (3) copies of the budget~~] shall be forwarded to the Kentucky Board of Education for its approval or disapproval. The failure of the district board of education to furnish the ***rates***[~~budget~~] within the time prescribed shall not invalidate any levy made thereafter.

(6)[~~(7) The budget shall be disapproved by the Kentucky Board of Education if it is financially unsound or fails to provide for:~~

~~(a) Payment of maturing principal and interest on any outstanding voted school improvement bonds of the school district, authorized and issued pursuant to KRS 162.080 and 162.090 with the written approval of the Kentucky Board of Education; or~~

~~(b) Payment of rentals in connection with any outstanding school building revenue bonds issued for the benefit of a school district by the appropriate city or county as authorized and provided under the provisions of KRS 162.120 to 162.300 and KRS 58.010 to 58.140, with the written approval of the Kentucky Board of Education; or~~

~~(c) Fails to comply with the law.~~

~~The Kentucky Board of Education shall state the reason for disapproval and the district board of education shall amend its budget, within the limitations of this section, to obviate the reasons for disapproval and resubmit the budget to the Kentucky Board of Education for final approval.~~

~~(8) If the budget as amended specifies a tax levy different from that levied under the disapproved budget, the tax-levying authority shall amend its levy so that the levy as amended shall comply with the provisions of subsection (1) of KRS 160.460. No general school budget shall become effective and no ad valorem levy shall be made until approved by the Kentucky Board of Education.~~

~~(9)~~] (a) Each district board of education shall, on or before January 31 of each calendar year, formally and publicly examine detailed line item estimated revenues and proposed expenditures for the subsequent fiscal year. On or before May 30 of each calendar year, each district board of education shall adopt a tentative working budget which shall include a minimum reserve of two percent (2%) of the total budget.

(b) Each district board of education shall submit to the Kentucky Board of Education no later than September 30, a close estimate or working budget which shall conform to the administrative regulations prescribed by the Kentucky Board of Education[~~, and which shall be consistent in its major divisions with the general school budget previously prepared~~].

(7)[~~(10)~~] (a) Except as provided in subsection ***(9)***[~~(12)~~] of this section and KRS 157.440, a district board of education proposing to levy a general tax rate[~~, voted general tax rate, or voted building tax rate~~] within the limits of subsection ***(1)***[~~(2)~~] of this section which exceed the compensating tax rate defined in KRS 132.010 shall hold a public hearing to hear comments from the public regarding the proposed tax rate. The hearing shall be held in the principal office of the taxing district or, in the event the taxing district has no office, or the office is not suitable for such a hearing, the hearing shall be held in a suitable facility as near as possible to the geographic center of the district.

(b) The district board of education shall advertise the hearing by causing the following to be published at least twice for two (2) consecutive weeks, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The general tax rate[~~, voted general tax rate, and voted building tax rate~~] levied in the preceding year, and the revenue produced by ***that rate***[~~those rates~~];
2. The general tax rate[~~, voted general tax rate, and voted building tax rate proposed~~] for the current year, and the revenue expected to be produced by ***that rate***[~~those rates~~];
3. The compensating general[~~, voted general, and voted building~~] tax ***rate***[~~rates~~], and the revenue expected from ***it***[~~them~~];
4. The revenue expected from new property and personal property;
5. The general areas to which revenue in excess of the revenue produced in the preceding year is to be allocated;
6. A time and place for the public hearing which shall be held not less than seven (7) days nor more than ten (10) days after the day that the second advertisement is published;
7. The purpose of the hearing; and
8. A statement to the effect that the General Assembly has required publication of the advertisement and the information contained herein.

(c) In lieu of the two (2) published notices, a single notice containing the required information may be sent by first-class mail to each person owning real property, addressed to the property owner at his residence or principal place of business as shown on the current year property tax roll.

(d) The hearing shall be open to the public. All persons desiring to be heard shall be given an opportunity to present oral testimony. The district board of education may set reasonable time limits for testimony.

(8)[~~(11)~~] (a) That portion of a general tax rate,[~~ a voted general tax rate, or a voted building tax rate,~~] except as provided in subsection ***(9)***[~~(12)~~] of this section, KRS 157.440, and KRS 157.621, levied by an action of a district board of education which will produce, respectively, revenue from real property, exclusive of revenue from new property, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, shall be subject to a recall vote or reconsideration by the district board of education as provided for in KRS 132.017, and shall be advertised as provided for in paragraph (b) of this subsection.

(b) The district board of education shall, within seven (7) days following adoption of an ordinance, order, resolution, or motion to levy a general tax rate,[~~ voted general tax rate, or voted building tax rate,~~] except as provided in subsection ***(9)***[~~(12)~~] of this section and KRS 157.440, which will produce revenue from real property, exclusive of revenue from new property as defined in KRS 132.010, more than four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010, cause the following to be published, in the newspaper of largest circulation in the county, a display type advertisement of not less than twelve (12) column inches:

1. The fact that the district board of education has adopted such a rate;
2. The fact that the part of the rate which will produce revenue from real property, exclusive of new property as defined in KRS 132.010, in excess of four percent (4%) over the amount of revenue produced by the compensating tax rate defined in KRS 132.010 is subject to recall; and
3. The name, address, and telephone number of the county clerk of the county or urban-county in which the school district is located, with a notation to the effect that that official can provide the necessary

information about the petition required to initiate recall of the tax rate.

(9)[~~(12)~~] (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after June 30, 1990, the board of education of each school district shall levy a minimum equivalent tax rate of thirty cents (S0.30) for general school purposes. Equivalent tax rate is defined as the rate which results when the income collected during the prior year from all taxes levied by the district for school purposes is divided by the total assessed value of property plus the assessment for motor vehicles certified by the Revenue Cabinet. School districts collecting school taxes authorized by KRS 160.593 to 160.597, 160.601 to 160.633, or 160.635 to 160.648 for less than twelve (12) months during a school year shall have included in income collected under this section the pro rata tax collection for twelve (12) months.

(b) If a board fails to comply with ***paragraph (a) of this*** subsection[~~ (12)(a) of this section~~], its members shall be subject to removal from office for willful neglect of duty pursuant to KRS 156.132.

Section 7. KRS 160.560 is amended to read as follows:

(1) Each board of education shall elect a treasurer for the board. The board may elect its secretary to serve as treasurer. The board may remove the treasurer from office at any time for cause by a vote of a majority of the members of the board.

(2) The treasurer shall execute an official bond for the faithful performance of the duties of his office, to be approved by the local board and the ***commissioner of education***[~~Kentucky Board of Education~~]. The bond shall be guaranteed by a surety company authorized to do business in this state, and shall be in an amount determined by the board of education in accordance with the ***administrative***[~~rules and~~] regulations ***promulgated by***[~~of~~] the Kentucky Board of Education. The premium on the bond shall be paid by the board of education. A copy of the bond shall be filed with the board of education and with the ***commissioner of education***[~~Kentucky Board of Education. All treasurer's bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education~~].

(3) The treasurer shall receive all moneys to which the board is entitled by the Constitution or by the statutes, except as otherwise provided by law, or which may in any way come into its possession, and deposit such funds in the properly designated depository. He shall withdraw such funds from the depository only upon proper order of the board. He shall keep a full and complete account of all funds in such manner and make such reports concerning them as is required by the board of education or by the Kentucky Board of Education. He shall preserve all records relating to the transactions and duties of the office and turn them over to his successor along with all public funds in his hands and all accounts and records after due and proper audit is made by a competent outside agent when he is required to do so by the board of education.

(4) The treasurer shall issue his check on the depository for payment of all legal claims which have been authorized for payment in accordance with policies previously adopted by the local board of education and approved by the ***commissioner of education***[~~Kentucky Board of Education~~].

Section 8. KRS 160.570 is amended to read as follows:

(1) Each board of education shall appoint a bank, trust company, or savings and loan association to serve as its depository, and if its annual receipts from all sources exceed one hundred thousand dollars ($100,000), it may designate three (3) depositories, except boards of education of school districts in counties containing cities of the first class may designate up to five (5) depositories. The depository may be designated for a period not to exceed two (2) years, and before entering upon its duties shall agree with the board as to the rate of interest to be paid on average daily or monthly balances.

(2) The depository selected shall, before entering upon its duties, execute bond for the faithful performance of its duties, to be approved by the local board of education ***in accordance with Kentucky Board of Education administrative regulations, and to be approved by the commissioner of education***[~~and the Kentucky Board of Education~~]. The bond shall be guaranteed by at least five (5) solvent personal sureties whose solvency must exceed the amount of the bond, or by a surety company authorized to do business in this state, or through the execution of a collateral bond consistent with the general banking laws of the state and the bonding laws applying to the safeguarding of state funds. The penal sum of the depository bond shall be determined by the board of education in accordance with the ***administrative***[~~rules and~~] regulations ***promulgated by***[~~of~~] the Kentucky Board of Education. A board of education may enter into an agreement with its depository whereby the premium on a bond guaranteed by a surety company may be paid either by the board or by the depository. If the board pays the premium, the depository shall allow the board not less than two percent (2%) interest on its average daily or average monthly balances. All depository bond forms shall be prepared by the chief state school officer and approved by the Kentucky Board of Education.

(3) The depository shall hold for the board all funds deposited by the treasurer of the board or its tax collector or duly authorized agent, subject to withdrawal by the board at any time, and shall pay all funds so deposited to such person and in such manner as the board directs. The depository shall keep full and complete accounts of all of the board's funds, and make reports to the board or its authorized agents upon request. The depository shall keep all records relating to the transactions and duties of the office and turn them over to the successor of its office along with all school funds in hand. The board of education may at any time require a due and proper audit of the depository's records of the funds of the board by a competent outside agent.

(4) A board of education may designate as its depository the authorized and bonded depository of the governing authority of the territory which the school district embraces. In such cases, the bond of the depository shall be made to cover specifically the safekeeping of the school board's funds, and all conditions set out in this section shall be carried out.

Section 9. KRS 157.440 is amended to read as follows:

(1) (a) Notwithstanding any statutory provisions to the contrary, effective for school years beginning after July 1, 1990, the board of education of each school district may levy an equivalent tax rate as defined in subsection ***(9)***[~~(12)~~](a) of KRS 160.470 which will produce up to fifteen percent (15%) of those revenues guaranteed by the program to support education excellence in Kentucky. The levy for the 1990-91 school year shall be made no later than October 1, 1989, and no later than October 1, 1990, for the 1991-92 school year, and by October 1 of each odd-numbered year thereafter. Effective with the 1990-91 school year, revenue generated by this levy shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment.

(b) To participate in the Facilities Support Program of Kentucky, the board of education of each school district shall commit at least an equivalent tax rate of five cents ($0.05) to debt service, new facilities, or major renovations of existing school facilities. The five cents ($0.05) shall be in addition to the thirty cents ($0.30) required by KRS 160.470***(9)***[~~(12)~~] and any levy pursuant to paragraph (a) of this subsection. The levy shall be made no later than October 1 of each odd-numbered year. Eligibility for equalization funds for the biennium shall be based on the district funds committed to debt service on that date. The five cents ($0.05) shall be equalized at one hundred fifty percent (150%) of the statewide average per pupil assessment. The equalization funds shall be committed to debt service to the greatest extent possible, but any excess equalization funds not needed for debt service shall be deposited to a restricted building fund account. The funds may be escrowed for future debt service or used to address categorical priorities listed in the approved facilities plan pursuant to KRS 157.420.

(c) The board of education of each school district may contribute the levy equivalent tax rate of five cents ($0.05) and equalization funds for energy conservation measures under guaranteed energy savings contracts pursuant to KRS 45A.345, 45A.352, and 45A.353. Use of these funds, as provided under KRS 45A.353, 56.774, and 58.600 shall be based on the following guidelines:

1. Energy conservation measures shall include facility alteration;
2. Energy conservation measures shall be identified in the district's approved facility plan pursuant to KRS 157.420;
3. The current facility systems are consuming excess maintenance and operating costs;
4. The savings generated by the energy conservation measures are guaranteed;
5. The levy equivalent tax rate of five cents ($0.05) and equalization funds contributed to the energy conservation measures shall be defined as capital cost avoidance as provided in KRS 45A.345(2) and shall be subject to the restrictions on usage as specified in KRS 45A.352(9); and
6. The equipment that is replaced has exceeded its useful life as determined by a life cycle cost analysis.

(d) The rate levied by a district board of education under the provisions of this subsection shall not be subject to the public hearing provisions of KRS 160.470***(7)***[~~(10)~~] or to the recall provisions of KRS 160.470***(8)***[~~(11)~~].

(e) A school district which is at or above the equivalent tax rates permitted under the provisions of the Kentucky Education Reform Act of 1990, 1990 Ky. Acts ch. 476, shall not be required to levy an equivalent tax rate which is lower than the rate levied during the 1989-90 school year.

(2) (a) A district may exceed the maximum provided by subsection ***(1)***[~~(2)~~] of KRS 160.470 provided that, upon request of the board of education of the district, the county board of elections shall submit to the qualified voters of the district, in the manner of submitting and voting as prescribed in paragraph (b) of this subsection, the question whether a rate which would produce revenues in excess of the maximum provided by subsection ***(1)***[~~(2)~~] of KRS 160.470 shall be levied. The rate that may be levied under this section may produce revenue up to no more than thirty percent (30%) of the revenue guaranteed by the program to support education excellence in Kentucky plus the revenue produced by the tax authorized by this section. Revenue produced by this levy shall not be equalized with state funds. If a majority of those voting on the question favor the increased rate, the tax levying authority shall, when the next tax rate for the district is fixed, levy a rate not to exceed the rate authorized by the voters.

(b) The election shall be held not less than fifteen (15) or more than thirty (30) days from the time the request of the board is filed with the county clerk, and reasonable notice of the election shall be given. The election shall be conducted and carried out in the school district in all respects as required by the general election laws and shall be held by the same officers as required by the general election laws. The expense of the election shall be borne by the school district.

(3) For the 1966 tax year and for all subsequent years for levies which were approved prior to December 8, 1965, no district board of education shall levy a tax at a rate under the provisions of this section which exceeds the compensating tax rate as defined in KRS 132.010, except as provided in subsection (4) of this section and except that a rate which has been

approved by the voters under this section but which was not levied by the district board of education in 1965 may be levied after it has been reduced to the compensating tax rate as defined in KRS 132.010, and except that in any school district where the rate levied in 1965 was less than the maximum rate which had been approved by the voters, the compensating tax rate shall be computed and may be levied as though the maximum approved rate had been levied in 1965 and the amount of revenue which would have been produced from such maximum levy had been derived therefrom.

(4) Notwithstanding the limitations contained in subsection (3) of this section, no tax rate shall be set lower than that necessary to provide such funds as are required to meet principal and interest payments on outstanding bonded indebtedness and payments of rentals in connection with any outstanding school revenue bonds issued under the provisions of KRS Chapter 162.

(5) The chief state school officer shall certify the compensating tax rate to the levying authorities.

Section 10. KRS 157.621 is amended to read as follows:

(1) Local school districts that have experienced student population growth during a five (5) year period may levy a five cents ($0.05) tax for debt service and new facilities in addition to the five cents ($0.05) levied under the school construction funding program provided in KRS 157.620. The tax rate levied by the district under this provision shall not be subject to a recall vote as provided in KRS 160.470*(8)*~~[(11)]~~ and shall not be equalized by state funding.

(2) A local school district shall meet the following criteria in order to levy the tax provided in subsection (1) of this section:

(a) Growth of at least one hundred fifty (150) students in average daily attendance and three percent (3%) overall growth for the five (5) preceding years;

(b) Bonded debt to the maximum capability of at least eighty percent (80%) of capital outlay from the Support Education Excellence in Kentucky funding program, all revenue from the local facility tax, and all receipts from state equalization on the local facility tax;

(c) Current student enrollment in excess of available classroom space; and

(d) A local school facility plan that has been approved by the Kentucky Board of Education and certified to the School Facilities Construction Commission.

(3) When the state appropriations amount to the total cost of equalizing the five cents ($0.05) at the rate prescribed in KRS 157.620, as evidenced in the biennial budget and the budget memorandum, the provisions of this section shall expire.

Section 11. KRS 160.473 is amended to read as follows:

(1) In the event that a general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to real property levied by a district board of education will produce a percentage increase in revenue from personal property less than the percentage increase in revenue from real property, the district board of education may levy a general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property which will produce the same percentage increase in revenue from personal property as the percentage increase in revenue from real property; however, in no event shall the general tax rate~~[, voted general tax rate, or voted building tax rate]~~ levied by the district board of education applicable to personal property exceed the prior year general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property levied by the respective district board of education.

(2) The general tax rate~~[, voted general tax rate, or voted building tax rate]~~ applicable to personal property levied by a district board of education under the provisions of subsection (1) of this section shall not be subject to the public hearing provisions of KRS 160.470*(7)*~~[(10)]~~ and to the recall provisions of KRS 160.470*(8)*~~[(11)]~~.

Section 12. KRS 160.475 is amended to read as follows:

(1) Except as otherwise provided in KRS 157.440, 160.470*(1)*~~[(2)]~~, and 160.476(4), the ad valorem tax levy for school purposes, other than sinking fund purposes, in each school district, shall be not more than one dollar and fifty cents ($1.50) annually on each one hundred dollars ($100) of property subject to local taxation.

(2) All existing subdistrict school tax levies, except those required to retire voted bonds, are hereby abolished.

Section 13. The following KRS section is repealed:

160.474 Cumulative increase for 1982-83 only -- Limit -- Public hearing and recall not applicable.

The Committee Amendment No. 1 to **HB 668** is as follows:

On page 1, line 3, after "***who shall***", by inserting "***report directly to the superintendent and who shall***".

HB 681, AN ACT relating to the school to careers program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.760 is amended to read as follows:

(1) It is the intent of the General Assembly that a School-to-Careers System be developed to serve as an umbrella for career-

related programs in the public schools ***and to provide services to students in private and parochial schools***, including School-to-Work, Tech Prep, and High Schools That Work initiatives.

(2) The goals of the School-to-Careers System shall be to:

(a) Increase the math, science, communications, social studies, and technical skills of all students through the implementation of a more rigorous and relevant applied curriculum and instructional process;

(b) Increase the awareness of job and career availability in the future workforce and the skills required to obtain those positions;

(c) Increase the postsecondary education's entry and completion rates and reduce the percentage of students taking remedial courses;

(d) Decrease the high school dropout rate through a system of increased guidance and extra help focused on academics and career achievement;

(e) Make all students aware of employer expectations in order to be successful;

(f) Increase the daily attendance rate at all secondary schools; and

(g) Provide the educational experiences that will cause all students to meet the goals and capacities identified in KRS 158.645 and KRS 158.6451 for Kentucky students.

Section 2. KRS 158.7603 is amended to read as follows:

(1) The School-to-Careers Grant Program shall be provided by the General Assembly to provide matching funds to school districts or consortia of school districts ***which may include private or parochial schools*** for the development and implementation of comprehensive plans that include:

(a) A comprehensive career awareness and exploration program for all students in grades K-8 to include study of Kentucky's fourteen (14) career clusters;

(b) High level academic and vocational courses for all secondary students to replace a general track curriculum;

(c) A comprehensive career guidance program to assist all secondary students in developing individual graduation plans;

(d) Applied academic instructional models for all disciplines and integration of academics and vocational education curriculum;

(e) Implementation of industry skill standards within all relevant academic and vocational education programs;

(f) Planned instructional programs to meet the needs of students with disabilities and other special needs students;

(g) Opportunity for students to receive, in addition to a high school diploma, a Career Major Certificate upon completion of the high school graduation requirements, work-based learning experiences, specific course work, and a career culminating project;

(h) Opportunity for students to participate in structured workbased learning;

(i) Linkages with postsecondary institutions that create a smooth and seamless transition from secondary to postsecondary education;

(j) Professional development for faculty and staff focused on developing integrated and applied curriculum; and

(k) A School-to-Careers Partnership Council composed of representatives of business, labor, education agencies, parents, students, teachers, administrators, and community organizations.

(2) The Kentucky Board of Education shall promulgate administrative regulations that set forth the request for proposal process, the criteria for grant awards, the responsibilities of local districts and consortia seeking matching funds, the level of funding available, and criteria for evaluating the success of the programs.

(3) The Department of Education shall administer the funds and shall provide technical assistance to local districts and consortia in developing, implementing, and evaluating School-to-Careers programs.

(4) The commissioner of education shall establish a state advisory committee composed of business, industry, labor, education, and government with a minimum of fifty-one percent (51%) of its membership from the employment sector to advise the department in the School-to-Careers program. The members shall serve without compensation but may be reimbursed for necessary travel expenses.

(5) The grant funds may be used to enhance on-going efforts such as Tech Prep, School-to-Work, and High Schools that Work initiatives.

HB 689, AN ACT relating to audits of school district cooperatives and school districts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 43 IS CREATED TO READ AS FOLLOWS:

(1) The Auditor of Public Accounts shall be responsible for an annual audit of the funds contained in each school district cooperative, school district consortium, school district corporation, and any other entity formed by school districts in an agreement made pursuant to KRS 65.210 to 65.300, with the cost of the audit to be borne by the audited entity.

(2) A school district cooperative, school district consortium, school district corporation, or other entity formed by school districts in an agreement made pursuant to KRS 65.210 to 65.300 may employ a certified public accountant to audit the books, accounts, and papers of the cooperative, consortium, corporation, or other entity in lieu of the audit required by subsection (1) of this section, if the Auditor of Public Accounts declines in writing to assume responsibility for performing the audit or fails to respond in writing within thirty (30) days of receiving the cooperative's, consortium's, corporation's, or other entity's written notice of its intent to employ a certified public accountant to conduct the audit. The cooperative, consortium, corporation, or other entity shall not enter into any contract with a certified public accountant for an audit unless the Auditor of Public Accounts has declined in writing to assume responsibility for performing the audit or has failed to respond within thirty (30) days of receipt of a written request for an audit.

(3) (a) Any contract with a certified public accountant entered into as a result of the Auditor of Public Accounts either declining to assume responsibility of performing the audit or failing to respond within thirty (30) days of receipt of a written request for an audit shall specify the following:

1. That the certified public accountant shall forward a copy of the audit report and management letters to the Auditor of Public Accounts for review;

2. That the Auditor of Public Accounts shall have the right to review the certified public accountant's work papers before and after the release of the audit; and

3. That after review of the certified public accountant's work papers, if discrepancies are found, the Auditor of Public Accounts shall notify the audited entity of the discrepancies. If the certified public accountant does not correct these discrepancies prior to the release of the audit, the Auditor of Public Accounts may conduct its own audit to verify the findings of the certified public accountant's report.

(b) If an audit verifying the findings of the certified public accountant's report is conducted by the Auditor of Public Accounts, the total audit expense incurred by the audited entity shall be an allowable expenditure and shall be paid by the audited entity to the Auditor of Public Accounts. If the audit conducted by the Auditor of Public Accounts discloses discrepancies in the audit by the certified public accountant, the findings of the Auditor of Public Accounts shall be deemed official for all purposes.

Section 2. KRS 156.265 is amended to read as follows:

(1) There shall be a State Committee for School District Audits comprised of the Governor, or a person designated by him, the Attorney General, ***the Auditor of Public Accounts,*** a person designated by the ***Legislative Research Commission to represent the Office of Education Accountability,***~~[secretary of the Finance and Administration Cabinet]~~ and the ***commissioner of education***~~[chief state school officer]~~. The ***Auditor of Public Accounts***~~[Governor, or the person designated by him,]~~ shall be the ***chair***~~[chairman]~~ of the committee.

(2) The committee shall have the accounts of each board audited not less than once every~~[two (2)]~~ fiscal ***year***~~[years]~~. The committee also may, at any time, cause to be made a comprehensive and complete audit of any board. Upon the written request of the state board, the ***commissioner of education***~~[chief state school officer]~~, the Attorney General, the Auditor of Public Accounts, the Governor, or the Office of Education Accountability, the committee may cause the accounts of a board to be audited. Each audit shall cover such period of time, and shall include such auditing procedures and standards, as the committee may designate.

(3) Audits authorized under this section are in addition to any audits contemplated under KRS 11.090, 156.200 or KRS Chapter 43.

(4) The actual expense of any audit authorized under this section shall be borne equally by the district board of education and by the committee from funds allocated to it.

(5) The committee shall meet at least quarterly. Additional or special meetings may be called by the chair.

HCR 82, A CONCURRENT RESOLUTION directing the Interim Joint Committee on Education to study the issue of the instruction of the principles of economics and the need for promoting economic education in public schools.

WHEREAS, the General Assembly of the Commonwealth of Kentucky has expressed its intent to create a system of public education which shall allow and assist all students to acquire knowledge to make economic, social, and political choices; and

WHEREAS, the principles of economics are in evidence throughout many aspects of human personal and social activity; and

WHEREAS, a survey by the National Council for Economic Education revealed that most Americans have no formal education in basic economics or personal finance, even as they are confronted with making economic decisions in their roles as consumers, investors, members of the workforce, and participants in the global economy; and

WHEREAS, sixty-six percent of high school students and forty-nine percent of adults failed a test of their knowledge of basic economic principles conducted by the National Council on Economic Education during 1998 and 1999; and

WHEREAS, these results are evidence that the level and quality of economic education in public schools is woefully inadequate to prepare students to address the challenges and opportunities they will face upon graduation; and

WHEREAS, a firm understanding of economics and the economy are important to assist students in making good decisions regarding their personal future, and in fulfilling their obligations as responsible citizens, workers, community members, and family members;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education is directed to study the issue of the instruction of the principles of economics and the need for promoting economic education in public schools during the 2000-2002 legislative interim.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and designate a study completion date.

HJR 101, A JOINT RESOLUTION directing the Kentucky Department of Education to promote strategies to assist school districts in providing a safe student transportation system.

WHEREAS, local school districts transport approximately 428,000 students to and from school each day; and

WHEREAS, student discipline is essential for safely transporting these students; and

WHEREAS, effective student transportation discipline policies require the cooperation of students, parents, bus drivers, principals, and local district superintendents;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education shall promote strategies to assist school districts in providing a safe student transportation system to include, but not be limited to, the following:

(1) Identifying and disseminating model school and district policies and procedures for maintaining student discipline on school buses, and training school bus drivers to address student discipline problems; and

(2) Providing a procedure for bus drivers, students, and parents to report unsafe school transportation situations not satisfactorily addressed at the local level. The Kentucky Department of Education shall investigate and work to resolve all problems.

Section 2. The Kentucky Department of Education shall provide the Interim Joint Committee on Education a report on its efforts by January 1, 2001.

Section 3. The Clerk of the House of Representatives shall send a copy of this resolution to the Commissioner of Education, 500 Mero Street, Frankfort, Kentucky 40601.

The Committee on Licensing and Occupations reported **HB 393,** with Committee Substitute attached thereto, **HB 677,** with Committee Substitute attached thereto, **HB 839,** with Committee Amendment attached thereto, and **HB 885** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 393, AN ACT relating to the certification of interior designers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context otherwise requires:

(1) "Department" means the Department of Housing, Buildings and Construction.

(2) "Kentucky certified interior designer" means a person who is certified to practice interior design in accordance with Sections 1 to 11 of this Act;

(3) "Practice of interior design" means:

(a) Providing design services for nonstructural elements or nonloadbearing, lateral load design elements within and surrounding interior spaces of buildings, but specifically excluding mechanical, plumbing, sprinkler, electrical, and heating, ventilating, and air conditioning systems except for specification of fixtures and their location within interior spaces; and

(b) Consulting and preparing documents throughout the phases of the interior design project, including the

fabrication, procurement, and installation phases, in connection with reflected ceiling plans, space planning, finishes, interior details, illumination, furniture, and furnishings.

(4) "National Council for Interior Design Qualification" means the national organization responsible for establishing minimum standards for the qualification of professional interior designers.

SECTION 2. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) No person shall use the title "Kentucky certified interior designer" unless the person at the time holds a valid certificate to practice interior design in the Commonwealth of Kentucky under Sections 1 to 11 of this Act.

(2) A person who does not hold the title "Kentucky certified interior designer" under subsection (1) of this section shall not hold himself or herself out to the public or use any terms, titles, or abbreviations that express or imply that the person is certified to practice interior design in the Commonwealth of Kentucky.

(3) Except as provided in Sections 1 to 11 of this Act, nothing in Sections 1 to 11 of this Act prohibits a person who is not certified as a Kentucky certified interior designer from practicing interior design or from using any title, sign, card, or device indicating that the person practices interior design.

SECTION 3. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 11 of this Act shall not apply to persons licensed under any other provisions of the Kentucky Revised Statutes, including but not limited to architects, landscape architects, professional engineers, and land surveyors, or students within accredited training programs of these professions. Nothing in Sections 1 to 11 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons practice.

(2) Nothing in Sections 1 to 11 of this Act shall be construed to prohibit or interfere with the ability of a licensed architect, landscape architect, professional engineer, or land surveyor to perform those activities that are associated with their practices, respectively, as provided under any provisions of the Kentucky Revised Statutes.

(3) Nothing in Sections 1 to 11 of this Act shall be construed to prohibit or interfere with the practice of interior design by students enrolled in a school approved by the department, if the students only perform services in accordance with a course of instruction or an assignment from an instructor.

(4) A person who is certified as a Kentucky certified interior designer does not mean a person who provides:

(a) Services that require performance by an architect as defined under KRS Chapter 323; or

(b) Services that require performance by a landscape architect as defined under KRS Chapter 323A; or

(c) Services that require performance by a professional engineer or land surveyor as defined under KRS Chapter 322.

SECTION 4. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department may promulgate administrative regulations in accordance with KRS Chapter 13A and Sections 1 to 11 of this Act that:

(1) Establish practice standards for those persons certified as a Kentucky-certified interior designer that are reasonable and necessary to protect the public safety;

(2) Establish an annual fee and a renewal fee for the certification of interior designers that may not in aggregate exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 11 of this Act;

(3) Establish a renewal process for certifications that have expired; and

(4) Establish a process regarding the use of a Kentucky certified interior designer's signature or certificate number on documents, plans, reports, drawings, or specifications.

SECTION 5. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

The department shall:

(1) Administer and enforce the provisions of Sections 1 to 11 of this Act;

(2) Maintain an official roster of all Kentucky certified interior designers;

(3) Require a Kentucky certified interior designer to include the interior designer's certificate number on all business and advertising documents;

(4) Deposit all fees collected from certifications of interior designers under Sections 1 to 11 of this Act into the State Treasury to the credit of the Kentucky interior designers certification fund created in Section 10 of this Act; and

(5) Review all applications of persons applying for certification under Sections 1 to 11 of this Act and approve the certification of those persons who meet the requirements of a Kentucky certified interior designer.

SECTION 6. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department shall issue a certificate as a Kentucky certified interior designer and a certificate number to any person

who:

(a) Files an application with the department on a form prescribed by the department;

(b) Submits the required certification fee to the department; and

(c) Submits written proof that the person has successfully passed the National Council for Interior Design Qualification examination.

(2) No person who has violated Section 2 of this Act shall file an application with the department for a period of five (5) years after violating Section 2 of this Act. The department shall not issue a certificate as a Kentucky certified interior designer for a period of five (5) years after the person violated Section 2 of this Act.

(3) For a period of two (2) years after the effective date of this Act, the department may issue a certificate as a Kentucky certified interior designer and a certificate number to a person who has practiced interior design for a minimum of ten (10) years preceding certification but who does not meet the examination requirement under subsection (1)(c) of this section, provided that the person has successfully passed the Building and Barrier-Free Code Life Safety section of the National Council for Interior Design Qualification examination.

(4) The department, upon proper application under this section, shall issue a certificate as a Kentucky certified interior designer and a certificate number to a person credentialed to practice interior design under the laws of any other country or state or territory of the United States, provided that the requirements are substantially equivalent to those of Kentucky.

SECTION 7. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) The department may suspend, revoke, or refuse to issue or renew the certificate of any person upon a finding of any of the following:

(a) The certification was fraudulently obtained;

(b) A judgment has been issued against the person for gross incompetence, neglect, or misconduct within the last five (5) years; or

(c) A judgment has been issued against the person or the person has pleaded guilty to or been found guilty of fraud or deceit in the person's professional duties within the last five (5) years.

(2) Any person may appeal a finding of the department within thirty (30) days of the date of notification of action. Upon appeal, the department shall schedule an administrative hearing in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Any documents, including plans, reports, drawings, and specifications prepared or issued by a Kentucky certified interior designer and filed for public record, shall bear the signature and certificate number of the Kentucky certified interior designer who prepared or approved those documents and the date on which the documents were signed. The signature, date, and certificate number are evidence of the authenticity of those documents.

(2) The building department of any city, county, charter county, or urban-county government shall accept any documents, plans, reports, drawings, or specifications filed by a Kentucky certified interior designer for work that the Kentucky certified interior designer is permitted to perform under Sections 1 to 11 of this Act, if those documents, plans, reports, drawings, or specifications otherwise meet the requirements for filing.

(3) No Kentucky certified interior designer shall knowingly:

(a) Affix, or permit to be affixed, the Kentucky certified interior designer's certificate number or signature to any document, plan, report, drawing, or specification that depicts work that the Kentucky certified interior designer is not competent or certified to perform; or

(b) Affix the Kentucky certified interior designer's signature or certificate number to any document, plan, report, drawing, or specification that was not prepared:

(1) By the Kentucky certified interior designer;

(2) Under the Kentucky certified interior designer's supervision; or

(3) By the Kentucky certified interior designer and not reviewed, approved, modified, or adopted by the Kentucky certified interior designer as his or her own work.

(4) When the certificate of a Kentucky certified interior designer has been revoked or suspended, the Kentucky certified interior designer shall surrender his or her certificate to the department within thirty (30) days after the revocation or suspension has become effective. If the certificate of the interior designer has been suspended, the interior designer's certificate shall be returned to the interior designer upon the expiration of the period of suspension.

SECTION 9. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

Every person who wishes to renew a certificate as a Kentucky certified interior designer shall successfully complete at least five (5) hours of continuing education within the broad range of subjects pertinent to the practice of interior design during the twelve (12) month period immediately preceding the expiration date of the person's certificate and include proof of completion *of such education, on forms prescribed by the department, with the person's renewal application and renewal fee.*

SECTION 10. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

All money collected by the department under Sections 1 to 11 of this Act shall be deposited into the State Treasury to the credit of the Kentucky certified interior designer's certification fund, which is hereby created. Money credited to the fund shall be used solely to pay the expenses of the department incurred in the administration of Sections 1 to 11 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 198B IS CREATED TO READ AS FOLLOWS:

(1) Whoever violates subsection (1) or (2) of Section 2 of this Act is guilty of a Class A misdemeanor.

(2) Whoever violates subsection (1)(a) of Section 7 of this Act by falsifying an application for certification or renewal as a Kentucky certified interior designer is guilty of a Class A misdemeanor, and the interior designer's certificate shall be revoked for two (2) years.

(3) Whoever violates subsection (3) or (4) of Section 8 of this Act is guilty of a Class B misdemeanor.

The Committee Substitute to **HB 393** is as follows:

HB 393, AN ACT relating to the certification of interior designers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 12 of this Act, unless the context otherwise requires:

(1) "Board" means the State Board of Examiners and Registration of Architects.

(2) "Certified interior designer" means a person who is certified to use the title "certified interior designer" in accordance with Sections 1 to 12 of this Act by meeting the criteria of education, experience, and examination as determined by the board.

(3) "NCIDQ" means the National Council for Interior Design Qualification.

SECTION 2. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) No person shall use the title "certified interior designer" unless the person at the time holds a valid certificate to use the title "certified interior designer" in the Commonwealth of Kentucky as established under Sections 1 to 12 of this Act.

(2) Nothing in Sections 1 to 12 of this Act prohibits a person who is not certified as a certified interior designer from providing interior design services or from using any title, sign, card, or device indicating that the person provides interior design services.

SECTION 3. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 1 to 12 of this Act shall not apply to persons licensed under any other provisions of the Kentucky Revised Statutes, including but not limited to architects, landscape architects, professional engineers, and land surveyors, or students within accredited training programs of these professions. Nothing in Sections 1 to 12 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons practice.

(2) Nothing in Sections 1 to 12 of this Act shall be construed to prohibit or interfere with the ability of a licensed architect, landscape architect, professional engineer, or land surveyor to perform those activities that are associated with their practices, respectively, as provided under any provisions of the Kentucky Revised Statutes.

(3) Nothing in Sections 1 to 12 of this Act shall be construed to prohibit or interfere with the rendering of interior design services by students enrolled in a school approved by the board, if the students only perform services in accordance with a course of instruction or an assignment from an instructor.

(4) A person who is certified as a certified interior designer does not mean a person who provides:

  (a) Services that require performance by an architect as defined under this chapter; or

  (b) Services that require performance by a landscape architect as defined under KRS Chapter 323A; or

  (c) Services that require performance by a professional engineer or land surveyor as defined under KRS Chapter 322.

SECTION 4. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

The board may promulgate administrative regulations in accordance with KRS Chapter 13A and Sections 1 to 12 of this Act that:

(1) Establish criteria of education, experience, and testing for those persons certified as a certified interior designer that are reasonable and necessary;

(2) Establish an annual fee and a renewal fee for the certification of certified interior designers that may not in aggregate

exceed amounts necessary to generate sufficient funds to effectively carry out and enforce the provisions of Sections 1 to 12 of this Act;

(3) Establish a renewal process for certifications that have expired; and

(4) Establish a process regarding the use of a certified interior designer's signature and certificate number on documents, plans, reports, drawings, or specifications that do not require the seal of a licensed architect or professional engineer.

SECTION 5. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

The board shall:

(1) Administer and enforce the provisions of Sections 1 to 12 of this Act;

(2) Maintain an official roster of all certified interior designers;

(3) Require a certified interior designer to include the certified interior designer's certificate number on all business and advertising documents;

(4) Deposit all fees collected from certified interior designers under Sections 1 to 12 of this Act into the State Treasury to the credit of the interior designers certification fund created in Section 10 of this Act; and

(5) Review all applications of persons applying for certification under Sections 1 to 12 of this Act and approve the certification of those persons who meet the requirements of a certified interior designer.

SECTION 6. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) The board shall issue a certificate as a certified interior designer and a certificate number to any person who:

  (a) Files an application with the board on a form prescribed by the board;

  (b) Submits written proof that the person has successfully passed the NCIDQ examination and therefore has met the education and internship requirements established by NCIDQ;

  (c) Meets the standards of education, experience, and testing established by the board under subsection (1) of Section 4 of this Act; and

  (d) Submits the required certification fee to the board.

(2) No person who has violated Section 2 of this Act shall file an application with the board for a period of five (5) years.

(3) For a period of two (2) years after the effective date of this Act, the board may issue a certificate as a certified interior designer and a certificate number to a person who does not meet the examination requirement under subsection (1)(b) of this section, but who can document:

  (a) Ten (10) years of experience as an interior designer or eight (8) years of experience as an interior designer and two (2) years of interior design education that is acceptable to the board; and

  (b) Successful completion of the Building and Barrier-Free Code Life Safety section of the NCIDQ examination.

(4) The board, upon proper application under this section, shall issue a certificate as a certified interior designer and a certificate number to a person credentialed as an interior designer under the laws of any other country or state or territory of the United States, provided that at the time the license or certificate was issued the applicant met the requirements of subsection (1) of this section.

SECTION 7. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) The board may suspend, revoke, or refuse to issue or renew the certificate of any person upon a finding of any of the following:

  (a) The certification was fraudulently obtained;

  (b) A judgment has been issued against the person for gross incompetence, neglect, or misconduct within the last five (5) years; or

  (c) A judgment has been issued against the person or the person has pleaded guilty to or been found guilty of fraud or deceit in the person's professional duties within the last five (5) years.

(2) Any person may appeal a finding of the board within thirty (30) days of the date of notification of action. Upon appeal, the board shall schedule an administrative hearing in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) Any documents, including plans, reports, drawings, and specifications prepared or issued by a certified interior designer and filed for public record, shall bear the signature and certificate number of the certified interior designer who prepared or approved those documents and the date on which the documents were signed. The signature, date, and certificate number are evidence of the authenticity of those documents.

(2) No certified interior designer shall knowingly:

  (a) Affix, or permit to be affixed, the certified interior designer's certificate number and signature to any document, plan, report, drawing, or specification that depicts work that requires the seal of a registered architect or

professional engineer;

(b) Affix, or permit to be affixed, the certified interior designer's certificate number and signature to any document, plan, report, drawing, or specification that depicts work that the certified interior designer is not competent or qualified to perform; or

(c) Affix the certified interior designer's signature and certificate number to any document, plan, report, drawing, or specification that was not prepared:

(1) By the certified interior designer; or

(2) Under the certified interior designer's supervision.

(3) When the certificate of a certified interior designer has been revoked or suspended, the certified interior designer shall surrender his or her certificate to the board within thirty (30) days after the revocation or suspension has become effective. If the certificate of the interior designer has been suspended or revoked, the certificate shall be returned to the certified interior designer upon the expiration of the period of suspension or reinstatement of the certificate.

SECTION 9. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) Every person who wishes to renew a certificate as a certified interior designer shall successfully complete at least twelve (12) hours of continuing education within the broad range of subjects pertinent to interior design during the twelve (12) month period immediately preceding the expiration date of the person's certificate and include proof of completion of such education, on forms prescribed by the board, with the person's renewal application and renewal fee.

(2) A minimum of eight (8) of the twelve (12) hours of continuing education required under subsection (1) of this section shall be composed of one (1) or more of the following topics: life safety codes, barrier-free codes, building structural systems, lighting, electrical systems, and heating, ventilation, and air conditioning systems.

SECTION 10. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

All money collected by the board under Sections 1 to 12 of this Act shall be deposited into the State Treasury to the credit of the certified interior designer's certification fund, which is hereby created. Money credited to the fund shall be used solely to pay the expenses of the board incurred in the administration of Sections 1 to 12 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

(1) Whoever violates subsection (1) of Section 2 of this Act is guilty of a Class A misdemeanor.

(2) Whoever violates subsection (1)(a) of Section 7 of this Act by falsifying an application for certification or renewal as a certified interior designer is guilty of a Class A misdemeanor, and the interior designer's certificate shall be revoked for two (2) years.

(3) Whoever violates subsection (2) or (3) of Section 8 of this Act is guilty of a Class B misdemeanor.

SECTION 12. A NEW SECTION OF KRS CHAPTER 323 IS CREATED TO READ AS FOLLOWS:

The Governor shall appoint one (1) additional member to the board who is a certified interior designer in the Commonwealth of Kentucky. This member shall have been providing interior design services for at least ten (10) years immediately preceding the appointment, and shall have been a resident of this Commonwealth for at least five (5) years immediately preceding the appointment.

HB 677, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) All actively licensed agents shall successfully complete six (6) classroom hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.

(2) In order to qualify to teach continuing education courses, all continuing education instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) No person shall:

(a) Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or

(b) Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.

(2) No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may

terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.

(3) Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in subsection (4)(v) of Section 17 of this Act. Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.

Section 3. KRS 324.010 is amended to read as follows:

[~~(1)~~]As used in this chapter, unless the context requires otherwise:

(1)[~~(a)~~]"Real estate brokerage" means a single, multiple, or continuing act of ***dealing in time shares or options,*** selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee,[~~ commission,~~] compensation, or other valuable consideration;

(2)[~~(b)~~]"Commission" means the Kentucky Real Estate Commission;

(3)[~~(c)~~]"Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the ***fee compensation or other valuable consideration***[~~commission~~];

(4)[~~(d)~~]"Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;

(5)[~~(e)~~]"Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;

(6)[~~(f)~~] "Sales associate" means any person ***licensed in accordance with subsection (2) of Section 7 of this Act that is affiliated***[~~associated~~] with a Kentucky-licensed principal broker[~~ who is licensed under KRS 324.046(2)~~] and ***who, when engaging in***[~~performs acts of~~] real estate brokerage***, does so*** under the ***supervision***[~~direction and control~~] of the principal broker;

(7)[~~(g)~~]"Approved real estate school" means:

(a)[~~1.~~] A school that has been given a certificate of approval by the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the commission; or

(b)[~~2.~~] A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(8)[~~(h)~~]"Accredited ***institution***[~~real estate school~~]" means a college or university accredited by appropriately recognized educational associations or chartered and licensed in Kentucky that grants credits toward an associate degree or a baccalaureate degree[~~ to those students successfully completing a course in real estate~~];

(9)[~~(i)~~] "Property management" means the overall management of real property for others for a fee,[~~ commission,~~] compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;[~~ and~~]

(10)[~~(j)~~] "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage***;***

(11) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;

(12) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;

(13) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with Section 13 of this Act, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;

(14) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his license with the principal broker for supervision of the licensee's real estate brokerage activity;

(15) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for

fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing education;

(16) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time; and

(17) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years.

~~[(2) One (1) act for a fee, commission, compensation, or other valuable consideration of buying or selling real estate of or for another; offering for another to buy, sell, or exchange real estate; leasing, renting, or offering to rent real estate; referring or offering to refer real estate for the purpose of securing prospects; or dealing in options or time sharing shall constitute the person performing, offering, or attempting to perform the act as a broker or sales associate.]~~

Section 4. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person ***who is not licensed as a real estate broker or sales associate to hold himself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate***~~[to act as a broker or real estate sales associate or to advertise or assume to act as a broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission]~~.

(2) ***No person shall practice real estate brokeage unless the person holds a license to practice real estate brokerage under this chapter.***

(3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(4)~~[(3)]~~No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may ***compensate***~~[pay a commission to]~~ or split fees with a broker licensed outside of Kentucky~~[who represents an out-of-state client]~~.

(5)~~[(4)]~~***Except as authorized in subsection (1) of Section 10 and Section 33 of this Act,*** no sales associate~~[licensed in Kentucky]~~ shall supervise another licensed sales associate or manage ***a real estate brokerage***~~[an]~~ office~~[, except by permission of the commission and when acting on the death of the principal broker]~~.

(6)~~[(5)]~~The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Section 5. KRS 324.030 is amended to read as follows:

KRS 324.020(1) ***and (2)*** shall not apply to:

(1) Any person who as owner or lessor***, including builders,*** performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employees, with respect to the property so owned or leased, if the acts are performed in the regular course of, or as an incident to, the management of the property and the investment in it;

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate;

(3) Any attorney-at-law who is performing his duties as attorney-at-law;

(4) Any receiver, trustee in bankruptcy, administrator, or executor, person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust, or will or the regular~~[salaried]~~ employees thereof;

(5) A person engaged in property management, if the person:

  (a) Is a regular employee of the owner or principal broker of the company engaged in property management; or

  (b) Receives as his primary compensation the use of a rental unit.

Section 6. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, an examination shall not be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at the times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.

(4) The commission may, by the promulgation of administrative regulations, require all licensure applicants to submit to a criminal record check for which the applicant shall be responsible for the payment of any fees incurred.

Section 7. KRS 324.046 is amended to read as follows:

(1) Every applicant for initial licensure as a broker shall have***:***

(a) Successfully completed not less than twenty-one (21) academic credit hours or the equivalent ***from an accredited institution or approved real estate school.***~~[with at least]~~ Twelve (12) hours ***shall be*** in real estate courses, ***three (3) hours of which shall be a course in broker management skills. The commission shall, by promulgation of administrative regulations, determine the required course content of broker management skills courses; and***~~[from an accredited or approved real estate school and shall have]~~

(b) Been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of ***thirty six (36)***~~[twenty-four (24)]~~ months prior to application.

(2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or their equivalent in real estate courses from an accredited ***institution*** or approved real estate school.

(3) Proof of the academic credit hours shall be an official transcript from the attended university and a sworn notarized affidavit signed by both the applicant and his or her principal broker or other documentation satisfactory to the commission. The applicant may file a complaint with the commission if the principal broker unjustly refuses to sign the affidavit.

(4) The commission may reduce the ***three (3)***~~[two (2)]~~ year experience requirement for applicants for a broker's license to ***two (2) years***~~[one (1) year]~~, if the applicant has an associate degree in real estate or a baccalaureate degree with a major ***or minor*** in real estate.

~~[(5) Persons licensed under the real estate laws of this state prior to June 19, 1976:~~

~~(a) Who have continuously maintained an active license since that date shall not be subject to any educational changes in this chapter or subject to any continuing education requirements; and~~

~~(b) Who have not continuously maintained an active license since that date may be exempted from continuing education requirements if the commission determines their qualifications merit such an exemption.]~~

Section 8. KRS 324.090 is amended to read as follows:

(1) Licenses shall expire on the thirty-first day of March of each year. The commission shall renew a license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the annual fees required. A new license shall be mailed only if the licensee's name, address, status, or affiliation changes.

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall failure of the mail.

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. ***An expired***~~[The]~~ license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 9. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing.

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his escrow accounts.

(6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter ***unless all parties***~~[if the parties fail to perform,]~~ enter into a written mutual release, or ***unless one (1) or more of the parties*** initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit ***to the party identified in the***

certified letter without penalty under this section ***and without civil liability in the courts of the Commonwealth of Kentucky***.

(7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

Section 10. KRS 324.112 is amended to read as follows:

(1) ***With the approval of his or her principal broker, any broker or***[~~No principal broker shall maintain a branch office outside a fifty (50) mile radius of the main office without having a broker managing the branch office.~~

~~(2) A~~] sales associate with two (2) years experience in the real estate business, averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior, may manage a branch office ***of the principal broker***[~~inside a fifty (50) mile radius of the main office~~].

(2)[~~(3)~~]The licenses of all ***licensees***[~~brokers and sales associates~~] shall be kept on file in the ***main*** office ***of the principal broker with whom they are***[~~in which they are actively engaged and~~] affiliated.

(3) No broker or sales associate shall simultaneously affiliate with more than one (1) principal broker unless authorized by statute or by order of the commission.

(4) A principal broker in the process of closing a real estate brokerage business may affiliate temporarily with another principal broker if:

(a) No other licensee is affiliated with the former principal broker;

(b) Both the former and the latter principal brokers represent to the commission that the affiliation is for the purpose of closing the former principal broker's business; and

(c) Both the former and the latter principal brokers give assurances satisfactory to the commission that no consumer will be adversely affected by the affiliation or the closing of the former principal broker's business.

Section 11. KRS 324.115 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every broker licensed under KRS 324.045 shall maintain a definite place of business in this state***.***

(2) A[~~, except a~~] broker who is a nonresident shall not be required to maintain an active place of business in this state if***:***

(a) He or she maintains a business place in the state of original licensure***;***

(b) The state of original licensure, in accordance with its reciprocity agreement with the commission, does not require Kentucky licensees holding licenses in that state to maintain an office in that state; and

(c) Paragraphs (a) and (b) of this subsection do not conflict[~~, unless this provision conflicts~~] with the commission's agreement of reciprocity with the state of original licensure.

Section 12. KRS 324.117 is amended to read as follows:

(1) ***No real estate advertising shall be false, misleading, or deceptive***[~~Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company listed on the licensee's real estate license or the name of the principal broker and a designation indicating that the licensee is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising~~].

(2) ***Every licensee who advertises shall identify in all advertising materials either:***

(a) The real estate company listed on the license; or

(b) The name of the licensee's principal broker followed by the word "broker."

(3) The requirement of subsection (2) of this section shall not apply if the licensee is transacting business relating to the marketing, sale, or lease of property which the licensee owns.

(4) The name of a deceased broker may remain a part of the firm name.

(5)[~~(3)~~]No associate may have his or her name in the firm name.

[~~(4) Any sales associate or broker affiliated with a principal broker shall advertise in the name of the real estate company listed on the associate's or broker's real estate license or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.~~]

(6) The commission shall, by the promulgation of administrative regulations, define false, misleading, or deceptive advertising.

(7) The commission shall, by the promulgation of administrative regulations, define the manner in which licensees may utilize any internet electronic communication for advertising or marketing.

Section 13. KRS 324.121 is amended to read as follows:

(1) A principal broker may ***designate one (1) or more affiliated licensees***~~[appoint himself or herself or a licensee with which he or she is associated]~~ to act as~~[an]~~ agent for a seller ***or lessor, to the exclusion of all other licensees affiliated with the principal broker. A principal broker may designate one (1) or more affiliated licensees to act as agent for a***~~[or]~~ buyer ***or lessee,*** or prospective buyer ***or lessee*** to the exclusion of all other licensees ***affiliated***~~[associated]~~ with the principal broker. ***The designation procedure shall be made in writing and communicated to all licensees affiliated with the principal broker. The designated agent shall inform and obtain the consent of the buyer or lessee, or prospective buyer or lessee to the designation.***

(2) If a principal broker ***designates***~~[appoints]~~ one (1) ***or more licensees***~~[licensee]~~ to represent the seller and ***one (1) or more other licensees***~~[another licensee]~~ to represent the buyer or the prospective buyer in the same transaction, ***only*** the principal broker~~[, the firm, or the licensees]~~ shall~~[not]~~ be deemed to be ***a*** dual ***agent representing the seller and buyer in a limited fiduciary capacity. As a dual agent, the principal broker shall not disclose to either party confidential information learned relative to the other party. Except as set forth in subsection (3) of this section, this designation shall not affect the principal broker's agency relationships in cooperative sales between consumers separately represented by nonaffiliated principal brokers***~~[agents]~~.

(3) ***No exchange of information or***~~[If the licensees are appointed in accordance with subsection (1) of this section,]~~ knowledge between or among ***consumers, whether*** the seller,~~[the]~~ buyer, ***lessor, or lessee, and*** the principal broker, the firm, or the licensees shall~~[not]~~ be imputed ***as a matter of law in any real estate transaction***.

(4) Nothing in this section shall prevent a real estate brokerage firm or licensee from entering into a dual agency relationship with ***consumers in a real estate transaction***~~[the seller and the buyer or the prospective buyer if the firm or licensee complies with the provisions of this chapter and administrative regulations promulgated by the commission on agency disclosure. Any licensee who, after such compliance, personally represents both the seller and the buyer in a particular transaction shall be deemed a disclosed dual agent]~~.

Section 14. KRS 324.142 is amended to read as follows:

Any licensee who ***engages***~~[proposes to engage]~~ in~~[sales of a]~~ promotional ***activities***~~[nature]~~ in this Commonwealth for property located outside of this Commonwealth shall first apply to the commission for its approval before so doing, and shall comply with administrative regulations, restrictions, and conditions the commission may impose as well as those provisions set forth in this chapter.

Section 15. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative ***investigate the actions of any licensee or any person who acts in that capacity.***~~[, and shall]~~ On the verified written complaint of any person, ***the commission shall*** investigate the actions of any~~[broker or sales associate or any]~~ person who assumes to act in ***that***~~[such]~~ capacity, if the complaint,~~[or complaint]~~ together with ***any***~~[other]~~ evidence presented in connection with it, ***alleges***~~[makes out]~~ a prima facie case ***that a violation set out in Section 17 of this Act has been committed. After the investigation, the commission***~~[. It]~~ may ***order a hearing and, in appropriate cases, take disciplinary action against***~~[suspend or revoke]~~ any ***licensee who is found in violation of***~~[license for grounds stated in]~~ KRS 324.160.

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of documents;

(b) Administer oaths;

(c) Examine witnesses; and

(d) Pay appropriate witness fees.

Section 16. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would ***allege***~~[make out]~~ a prima facie case ***that the licensee has violated the provisions of Section 17 of this Act***~~[against the licensee]~~. ***If the complaint does not allege a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not allege a prima facie case that the licensee has violated the provisions of Section 17 of this Act, the commission shall dismiss the matter without requiring the licensee to file or serve a response.***

(2) ***If the complaint alleges a prima facie case that a licensee has violated the provisions of Section 17 of this Act,*** a copy of the complaint, exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee~~[defendant]~~, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

(3) ***If the commission serves the complaint upon the licensee,*** the~~[defendant]~~ licensee shall file with the commission an answer to the complaint,~~[and]~~ properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days***. The licensee shall deliver to the complainant at his last known address***~~[and]~~ a copy of the answer, exhibits attached thereto, ***and***~~[as well as]~~ any subsequent pleadings~~[, shall be served~~

~~on complainant and shall show certification that there has been service by writing to the last known address]~~. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.

Section 17. KRS 324.160 is amended to read as follows:

(1) The commission may ***order any or all of the following sanctions for violation of subsections (4) to (7) of this section:***

(a) ***Suspension of any license;***[~~suspend or~~]

(b) ***Revocation of***[~~revoke~~] any license***;***[~~ or~~]

(c) Levy ***of*** fines not to exceed ***two thousand five hundred dollars ($2,500);***[~~five hundred dollars ($500), or both, and~~]

(d) ***Placing of***[~~place~~] any licensee on probation for a period of up to ***three (3) years;***[~~twelve (12) months or~~]

(e) ***Requiring***[~~require~~] successful completion of academic credit hours ***or additional credit hours*** in real estate courses from an accredited ***institution*** or approved real estate school***;*** or

(f) ***Issuing***[~~ issue~~] a formal ***or informal*** reprimand***.***[~~ or order a licensee to pay restitution in an amount to be determined by the commission after a hearing, as a condition of continued licensure, for any of the following causes:~~]

(2) ***A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancelation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancelation.***

(3) ***No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.***

(4) ***The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:***

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him or her ***or with the broker with whom the licensee is affiliated,*** nor acquire an interest therein, without ***first indicating in writing on the offer to purchase his or her status as a licensee***[~~making his or her true position clearly known in writing on the sales contract or offer to purchase~~];

2. Before a[~~ real estate~~] licensee ***becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;***[~~buys,~~]

3. ***Before a licensee*** sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose***, in writing,*** any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker ***in accordance with a compensation agreement between them***[~~at the time the brokerage agreement was obtained~~]. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of ***the***[~~that~~] principal broker ***with whom the licensee is affiliated***;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony ***or of a misdemeanor involving moral turpitude when***[~~and~~] the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction[~~,~~] suspending the imposition of sentence***;***[~~, or~~]

(k) Failing to report a[~~ felony~~] conviction,[~~ or~~] plea of guilty[~~ to a felony~~], or an "Alford" plea to a felony ***or a***

misdemeanor involving moral turpitude to the commission;[~~or~~]

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice***;***[~~, or~~]

(m) Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate***;***[~~, or~~]

(n) Acting in the dual capacity of ***licensee***[~~broker~~] and undisclosed principal in ***any real estate***[~~the~~] transaction;

(o)[~~(k)~~]Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(p)[~~(l)~~] Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with ***a consumer***[~~an owner or lessor~~] knowing that the ***consumer***[~~owner or lessor~~] had a written outstanding contract granting exclusive agency ***with***[~~in connection with the property to~~] another real estate broker;

(q)[~~(m)~~] Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(r)[~~(n)~~] Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(s)[~~(o)~~] Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

[~~(p) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(3);~~]

(t)[~~(q)~~] Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(u)[~~(r)~~] Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(v)[~~(s)~~] Gross negligence.

(5)[~~(2)~~]Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection ***(4)(u)***[~~(1)(r)~~] of this section.

(6)[~~(3)~~]No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. ***The***[~~A principal broker's~~] failure ***of a broker or his designated manager*** to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

(7)[~~(4)~~]The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 18. KRS 324.170 is amended to read as follows:

(1) The commission shall, before denying an application for license or before ***ordering any disciplinary action against a licensee,***[~~suspending or revoking any license, set the matter down for~~] ***order*** a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker ***or his designated representative*** at the hearing.

(2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not ***order any disciplinary action against a licensee***[~~suspend, revoke, or fine any licensee or place any licensee on probation~~]. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.

Section 19. KRS 324.200 is amended to read as follows:

(1) If the commission ***determines***[~~shall determine~~] after a hearing that any applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the commission ***determines***[~~shall determine~~] after a hearing that any licensee ***has violated***[~~is guilty of a violation of~~] any of the provisions of this chapter, the ***disciplinary measures in subsection (1) of Section 17 of this Act may be ordered***[~~license shall be suspended or revoked~~].

(2) Any party aggrieved by the action of the commission in refusing to grant a license or in ***ordering any disciplinary action***[~~suspending or revoking a license~~] may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B. Disciplinary action imposed by the commission shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the commission.

Section 20. KRS 324.220 is amended to read as follows:

No person who has had a broker's or sales associate's license revoked shall be issued another license for five (5) years from the date of revocation. All persons seeking issuance of another license after ***the five-year period of*** revocation may do so only at the discretion of the commission and shall retake the appropriate examination and meet all of the contemporary licensing requirements.

Section 21. KRS 324.230 is amended to read as follows:

The revocation ***or suspension*** of a principal broker's license shall automatically ***render inactive***~~[suspend]~~ every license granted to any person by virtue of association with the principal broker whose license has been revoked ***or suspended***, pending a change of principal broker and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 22. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) ***All***~~[Vacancies occurring in 1984 shall be filled by one (1) appointment for a three (3) year term and one (1) appointment for a four (4) year term; all subsequent]~~ appointments shall be for the specified four (4) year term.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. The Governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than three (3) of any one (1) political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to ***promulgate***~~[draft]~~ administrative regulations; to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter ***or alternatively to contract with an entity to conduct examinations***; to conduct necessary educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.

(7) The commission shall***, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit of courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review***~~[require all actively licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal. The commission shall implement this provision by promulgating an administrative regulation. The classroom hours of mandatory continuing education shall be six (6) hours per year. Two (2) of the six (6) hours shall pertain to the study of real estate law]~~.

Section 23. KRS 324.2811 is amended to read as follows:

A member shall be automatically removed from the commission and a vacancy shall be created if:

(1) A licensee of the commission ceases to be a broker or sales associate;

(2) A consumer member of the commission acquires a license or ***financial*** interest in the practice of real estate;

(3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal; or

(4) A member ceases to be a bona fide resident of this Commonwealth.

Section 24. KRS 324.282 is amended to read as follows:

The commission, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairperson~~[, and may do all things necessary and convenient for carrying into effect the provisions of this chapter]~~. The commission ***shall***~~[may from time to time]~~ promulgate~~[necessary]~~ administrative regulations ***in accordance with KRS Chapter 13A and this chapter to effectively carry out and enforce the provisions of this chapter***, but the commission shall not promulgate any administrative regulation which in any way fixes prices***, establishes fees, or sets the rate at which licensees are compensated***~~[or commissions]~~.

Section 25. KRS 324.287 is amended to read as follows:

The commission shall ***set,*** charge***,*** and collect the following fees:

(1) Examination fee, not to exceed ***one hundred dollars ($100)***~~[seventy-five dollars ($75)]~~.

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

(8) Broker and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30).

Section 26. KRS 324.288 is amended to read as follows:

No affiliation fee shall be charged in any year to a licensee. As used in this section, "affiliation ***fee***"~~[fee]~~ means any fee or compensation paid by a licensee, to any person, for the privilege of listing his license with a particular principal broker, in records submitted to the commission.

Section 27. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of his license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his license in escrow with the commission provided that:

    (a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

    (b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3) At the request of the licensee***,***~~[and]~~ upon the meeting of requirements applicable to active licensees ***and completion of all continuing education requirements***, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee.

Section 28. KRS 324.312 is amended to read as follows:

A principal broker shall return an associate's license to the commission upon request. A principal broker that fails to return a license to the commission upon request shall be in violation of ***subsection (4)(u) of*** KRS 324.160~~[(1)(r)]~~.

Section 29. KRS 324.360 is amended to read as follows:

(1) This section shall apply to sales and purchases involving ***single-family*** residential real estate ***dwellings*** if any person licensed under this chapter receives compensation.

(2) The commission shall promulgate an administrative regulation authorizing a "seller's disclosure of conditions form."

(3) The form shall provide for disclosure by the seller of the following:

    (a) Basement condition and whether it leaks;

    (b) Roof condition and whether it leaks;

    (c) Source and condition of water supply;

    (d) Source and condition of sewage service;

    (e) Working condition of component systems; and

    (f) Other matters the commission deems appropriate.

(4) ***The seller of the property shall complete and sign the form at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property. A copy of the form shall be provided by the listing agent to any prospective buyer or a buyer's authorized representative upon request. A copy of the form shall be delivered by the listing agent to any prospective purchaser or his representative within seventy-two (72) hours of the listing agent's receipt of a written and signed offer to purchase. The listing agent shall solicit the signature of the buyer on a copy of the form which the listing agent shall retain in the principal broker's records. The signature shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the***

licensee shall record the buyer's refusal to sign on the form and retain a copy in his principal broker's records~~[The form shall be completed and signed by the seller at the time of listing for sale or, for property not listed for sale, completed and signed by the seller within five (5) business days of any executory contract for sale of the residential real estate. The form shall not be required for residential purchases of new homes if a written warranty is offered, for a sale of real estate at auction, or for a court supervised foreclosure]~~.

(5) ***If the subject property is offered for sale by the property's owner without a listing agreement, any licensee involved in the transaction shall provide a blank form to the property's owner and shall request that the property's owner complete and sign the form. If the property's owner completes and signs the form, the licensee shall deliver the form to the buyer or potential buyer not later than one hundred twenty (120) hours after the creation of any executory contract for sale of the property. The licensee shall solicit the signature of the buyer on a copy of the form as delivered to the buyer or prospective buyer and shall retain the copy in his or her principal broker's records. The signature of the buyer or prospective buyer shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his or her principal broker's records***~~[An accurate copy of the completed form shall be retained by the licensed broker or sales associate who receives compensation in the transaction. An accurate copy shall be delivered to any prospective purchaser upon request and to any prospective purchaser making a signed written offer to purchase, without unreasonable delay. Delivery shall be the responsibility of the broker or sales associate who anticipates being compensated in the transaction]~~.

(6) ***The original of the form shall be retained by the listing broker or by the broker of any licensee who presents an offer on a property not subject to a listing agreement.***

(7) The form shall not be required for residential purchases of new homes if a written warranty is offered for a sale of real estate at an auction, or for a court supervised foreclosure.

(8) It shall be a violation of this chapter for a licensee to complete any portion of the form unless the licensee is the owner of the property.

(9) If the seller refuses to complete and sign the form, his refusal shall be communicated in writing by the broker or sales associate who ***is involved***~~[anticipates being compensated]~~ in the transaction to the purchaser or prospective purchaser, without unreasonable delay.

Section 30. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the annual license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group insurance program at a reasonable premium, not to exceed one hundred twenty-five dollars ($125), the insurance requirement mandated by this section shall be void during the applicable contract year.

~~[(8) The errors and omissions insurance mandated by this section shall become effective April 1, 1987.]~~

Section 31. KRS 324.400 is amended to read as follows:

(1) There is hereby created and established in the State Treasury the real estate education, research, and recovery fund.

(2) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, upon renewal of every broker's and sales associate's license, as well as any and all other types of licenses, if any, issued by the commission, as of June 30, 1972, and every regular annual renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed thirty dollars ($30) per year to be included in the real estate education, research, and recovery fund. Each and every original applicant for a license after July 1, 1972, shall likewise submit to the commission an additional fee of thirty dollars ($30) to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal period.

(3) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, the commission, based upon its own

discretion as to need, may assess each licensee upon renewal an amount less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but on renewal will be subjected to the same renewal amount as other licensees.

Section 32. KRS 324.420 is amended to read as follows:

(1) An aggrieved party ***may***[~~shall~~] commence an ***administrative*** action which may result in collection from the recovery fund by first filing ***a complaint*** with the commission on a form prepared by the commission. ***The complaint shall allege a prima facie case that a licensee is in violation of Section 17 of this Act and is subject to the same conditions set forth in Section 15 of this Act. If the complainant alleges a prima facie case and the matter is not settled,*** the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee ***and who believes that the licensee is in violation of the provisions of this chapter***; or

(b) ***A member of the consumer public***[~~One~~] who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in ***his or her***[~~their~~] own property ***and who believes that the licensee is in violation of the provisions of this chapter***.

(8) If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(9) Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

Section 33. KRS 324.425 is amended to read as follows:

In case of death ***or other incapacity*** of a principal broker having a licensed sales associate or sales associates affiliated at the time of death ***or other incapacity***, the commission reserves the right in its discretion, based upon the merits of each case, to permit one (1) of the sales associates to complete and close the then existing business of the deceased ***or incapacitated*** broker for a temporary period not to exceed six (6) months.

Section 34. The following KRS sections are repealed:

324.070 License fees.

324.340 Power of cities to regulate brokers not affected.

The Committee Substitute to **HB 677** is as follows:

HB 677, AN ACT relating to real estate brokerage.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) ***All actively licensed agents except those licensees exempt under subsection (5) of Section 7 of this Act, shall successfully complete six (6) classroom hours of continuing education each year. Three (3) of the six (6) hours shall be in real estate law. The commission shall promulgate administrative regulations to establish procedures for implementing this requirement.***

(2) ***In order to qualify to teach continuing education courses, all continuing education instructors shall maintain a minimum rating as prescribed by the commission by the promulgation of administrative regulations.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 324 IS CREATED TO READ AS FOLLOWS:

(1) ***No person shall:***

(a) ***Solicit or request a referral fee from a real estate licensee unless that person introduced the business to the real estate licensee from whom the referral fee is sought and a contractual referral fee relationship exists between the person and the real estate licensee; or***

(b) ***Threaten to reduce or withhold employee relocation benefits or to take other action adverse to the interests of a client of a real estate licensee because of an agency relationship.***

(2) ***No real estate licensee, relocation firm, or firm with a corporate relocation policy or benefits, or anyone on behalf of any licensee or firm, shall counsel a client of another real estate licensee regarding the manner in which the client may terminate or amend an existing listing contract, buyer agency agreement, or other agency relationship. Communicating corporate relocation policy or benefits to a transferring employee shall not be considered a violation of this section, as long as the communication does not involve advice or encouragement regarding the manner in which the client may terminate or amend an existing agency relationship.***

(3) ***Violation of this section by a broker or sales associate shall be considered improper conduct as referred to in subsection (4)(v) of Section 17 of this Act. Violation of this section by unlicensed persons shall be subject to the penalties in KRS 324.990.***

Section 3. KRS 324.010 is amended to read as follows:

[~~(1)~~]As used in this chapter, unless the context requires otherwise:

(1)[~~(a)~~]"Real estate brokerage" means a single, multiple, or continuing act of ***dealing in time shares or options,*** selling or offering for sale, buying or offering to buy, negotiating the purchase, sale, or exchange of real estate, engaging in property management, leasing or offering to lease, renting or offering for rent, or referring or offering to refer for the purpose of securing prospects, any real estate or the improvements thereon for others for a fee,[~~ commission,~~] compensation, or other valuable consideration;

(2)[~~(b)~~]"Commission" means the Kentucky Real Estate Commission;

(3)[~~(c)~~]"Net listing" means a listing agreement that provides for a stipulated net price to the owner and the excess over the stipulated net price to be received by the licensee as the ***fee compensation or other valuable consideration***[~~commission~~];

(4)[~~(d)~~]"Principal broker" means a person licensed as a broker under KRS 324.046 who, in addition to performing acts of real estate brokerage or transactions comprehended by that definition, is the single broker responsible for the operation of the company with which he or she is associated;

(5)[~~(e)~~]"Real estate" means real estate in its ordinary meaning and includes timeshares, options, leaseholds, and other interests less than leaseholds;

(6)[~~(f)~~] "Sales associate" means any person ***licensed in accordance with subsection (2) of Section 7 of this Act that is affiliated***[~~associated~~] with a Kentucky-licensed principal broker[~~ who is licensed under KRS 324.046(2)~~] and ***who, when engaging in***[~~performs acts of~~] real estate brokerage***, does so*** under the ***supervision***[~~direction and control~~] of the principal broker;

(7)[~~(g)~~]"Approved real estate school" means:

(a)[~~1.~~] A school that has been given a certificate of approval by the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the Kentucky Real Estate Commission. The school shall also be currently in good standing with both the State Board for Proprietary Education ***or other regulatory bodies that exercise jurisdiction over accreditation and approval*** and the commission; or

(b)[~~2.~~] A National Association of Realtors recognized program which has been reviewed by the Kentucky Real Estate Commission and deemed an approved real estate school;

(8)[~~(h)~~]"Accredited ***institution***[~~real estate school~~]" means a college or university accredited by appropriately recognized

educational associations or chartered and licensed in Kentucky that grants credits toward ***a program for either an associate, baccalaureate, graduate, or professional degree***~~[an associate degree or a baccalaureate degree to those students successfully completing a course in real estate]~~;

(9)~~[(i)]~~ "Property management" means the overall management of real property for others for a fee,~~[commission,]~~ compensation, or other valuable consideration, and may include the marketing of property, the leasing of property, collecting rental payments on the property, payment of notes, mortgages, and other debts on the property, coordinating maintenance for the property, remitting funds and accounting statements to the owner, and other activities that the commission may determine by administrative regulation;~~[and]~~

(10)~~[(j)]~~ "Broker" means any person who is licensed under KRS 324.046(1) and performs acts of real estate brokerage*;*

(11) "Regular employee" means an employee who works for an employer, whose total compensation is subject to withholding of federal and state taxes and FICA payments, and who receives from the employer a fixed salary governed by federal wage guidelines that is not affected by specific real estate transactions;

(12) "Referral fee" means consideration of any kind paid or demanded for the referral of a potential or actual buyer, seller, lessor, or lessee of real estate;

(13) "Designated agency" means a form of agency relationship that exists when a principal broker, in accordance with Section 13 of this Act, identifies different licensees in the same real estate brokerage firm to separately represent more than one (1) party in the same real estate transaction;

(14) "Affiliation" means the relationship agreed upon between a licensee and a principal broker and reported to the commission, where the licensee places his license with the principal broker for supervision of the licensee's real estate brokerage activity;

(15) "Canceled" means the status of a license when a licensee fails to renew a license, writes the commission a check for fees that is not honored, fails to re-affiliate with a principal broker, or fails to complete requirements for continuing education;

(16) "Suspended" means the status of a license when disciplinary action has been ordered against a licensee that prohibits the brokerage of real estate for a specific period of time; and

(17) "Revoked" means the status of a license when disciplinary action has been ordered that removes the licensee's legal authority to broker real estate for a minimum of five (5) years.

~~[(2) One (1) act for a fee, commission, compensation, or other valuable consideration of buying or selling real estate of or for another; offering for another to buy, sell, or exchange real estate; leasing, renting, or offering to rent real estate; referring or offering to refer real estate for the purpose of securing prospects; or dealing in options or time sharing shall constitute the person performing, offering, or attempting to perform the act as a broker or sales associate.]~~

Section 4. KRS 324.020 is amended to read as follows:

(1) It shall be unlawful for any person ***who is not licensed as a real estate broker or sales associate to hold himself out to the public as a real estate broker or sales associate or use any terms, titles, or abbreviations which express, infer, or imply that the person is licensed as a real estate broker or sales associate***~~[to act as a broker or real estate sales associate or to advertise or assume to act as a broker or sales associate within the Commonwealth of Kentucky, without a license issued by the Kentucky Real Estate Commission]~~.

(2) ***No person shall practice real estate brokerage unless the person holds a license to practice real estate brokerage under this chapter.***

(3) A licensee who is an owner or a builder-developer shall comply with the provisions of this chapter and the administrative regulations applying to real estate brokers and sales associates.

(4)~~[(3)]~~No broker shall split fees with or compensate any person who is not licensed to perform any of the acts regulated by this chapter, except that a broker may ***compensate***~~[pay a commission to]~~ or split fees with a broker licensed outside of Kentucky~~[who represents an out-of-state client]~~.

(5)~~[(4)]~~***Except as authorized in subsection (1) of Section 10 and Section 33 of this Act,*** no sales associate~~[licensed in Kentucky]~~ shall supervise another licensed sales associate or manage ***a real estate brokerage***~~[an]~~ office~~[, except by permission of the commission and when acting on the death of the principal broker]~~.

(6)~~[(5)]~~The Kentucky Real Estate Commission may seek and obtain injunctive relief against any unlicensed individual acting in violation of this chapter by filing a civil action in the Circuit Court where the commission is located or where the unlawful activity took place.

Section 5. KRS 324.030 is amended to read as follows:

KRS 324.020(1) ***and (2)*** shall not apply to:

(1) Any person who as owner or lessor***, including builders,*** performs any of the acts defined in KRS 324.010 with reference to property owned or leased by him or to his regular employees, with respect to the property so owned or leased, if the acts are performed in the regular course of, or as an incident to, the management of the property and the investment in it;

(2) Any person acting as attorney in fact under a duly executed power of attorney from the owner authorizing the final consummation by performance of any contract for the sale, leasing, or exchange of real estate;

(3) Any attorney-at-law who is performing his duties as attorney-at-law;

(4) Any receiver, trustee in bankruptcy, administrator, or executor, person selling real estate under order of any court, or a trustee acting under a trust agreement, deed of trust, or will or the regular[~~ salaried~~] employees thereof;

(5) A person engaged in property management, if the person:

(a) Is a regular employee of the owner or principal broker of the company engaged in property management; or

(b) Receives as his primary compensation the use of a rental unit***; or***

(6) A nonlicensed person under the supervision of a licensed real estate broker who contacts the public for the purpose of setting an appointment for the broker to meet with them regarding buying or selling property.

Section 6. KRS 324.045 is amended to read as follows:

(1) Licenses shall be granted only to persons who are trustworthy and competent to transact the business of a broker or sales associate in a manner to safeguard the interest of the public, and only after satisfactory proof of qualifications has been presented to the commission.

(2) In addition to proof of honesty, truthfulness, and good reputation of any applicant for a license, each applicant shall pass a written examination conducted by the commission, or its authorized representative. The examination shall be of the scope and wording sufficient in the judgment of the commission to establish the competency of the applicant to act as a broker or sales associate in a manner to protect the interests of the public. However, an examination shall not be required for the renewal of any present or future license, unless the license has been revoked, suspended, or is allowed to expire without renewal for a period of more than one (1) year.

(3) The commission shall hold examinations at the times and places it determines, and an examination fee shall be collected from each applicant to defray the expenses of holding the examinations.

(4) The commission may, by the promulgation of administrative regulations, require all licensure applicants to submit to a criminal record check for which the applicant shall be responsible for the payment of any fees incurred.

Section 7. KRS 324.046 is amended to read as follows:

(1) Every applicant for initial licensure as a broker shall have***:***

(a) Successfully completed not less than twenty-one (21) academic credit hours or the equivalent ***from an accredited institution or approved real estate school.***[~~with at least~~] Twelve (12) hours ***shall be*** in real estate courses***, three (3) hours of which shall be a course in broker management skills. The commission shall, by promulgation of administrative regulations, determine the required course content of broker management skills courses; and***[~~from an accredited or approved real estate school and shall have~~]

(b) Been engaged in the real estate business as a sales associate averaging at least twenty (20) hours per week for a period of ***thirty six (36)***[~~twenty-four (24)~~] months prior to application.

(2) Every applicant for initial licensure as a sales associate shall have successfully completed six (6) academic credit hours or their equivalent in real estate courses from an accredited ***institution*** or approved real estate school.

(3) Proof of the academic credit hours shall be an official transcript from the attended university and a sworn notarized affidavit signed by both the applicant and his or her principal broker or other documentation satisfactory to the commission. The applicant may file a complaint with the commission if the principal broker unjustly refuses to sign the affidavit.

(4) The commission may reduce the ***three (3)***[~~two (2)~~] year experience requirement for applicants for a broker's license to ***two (2) years***[~~one (1) year~~], if the applicant has an associate degree in real estate or a baccalaureate degree with a major ***or minor*** in real estate.

(5) Persons licensed under the real estate laws of this state prior to June 19, 1976:

(a) Who have continuously maintained an active license since that date shall not be subject to any educational changes in this chapter or subject to any continuing education requirements; and

(b) Who have not continuously maintained an active license since that date may be exempted from continuing education requirements if the commission determines their qualifications merit such an exemption.

Section 8. KRS 324.090 is amended to read as follows:

(1) Licenses shall expire on the thirty-first day of March of each year. The commission shall renew a license for each ensuing year, in the absence of any reason or condition which might warrant the refusal of the granting of the license, upon receipt of the written request of the applicant and payment of the annual fees required. A new license shall be mailed only if the licensee's name, address, status, or affiliation changes.

(2) A fine not to exceed two hundred dollars ($200) shall be assessed for failure to renew on time before a new license is issued. Failure to receive a renewal form shall not constitute an adequate excuse for failure to renew on time nor shall

failure of the mail.

(3) Any license not renewed at the end of the renewal year as prescribed by the commission shall automatically revert to expired status. ***An expired***[~~The~~] license may be reactivated before a lapse of one (1) year, if delinquent fees are paid by the licensee.

Section 9. KRS 324.111 is amended to read as follows:

(1) A principal broker shall maintain an escrow account or accounts, separate from the individual or office account, in which all contract deposits and money belonging to others shall be deposited without unreasonable delay. The escrow accounts shall be maintained within the State of Kentucky and shall be identified to the commission in writing.

(2) The broker may place the deposit in an interest-bearing account or instrument. The interest earned shall accrue to the person agreed to in writing by all parties.

(3) No checks shall be drawn against uncollected deposits in the escrow account.

(4) None of the contract deposits shall be withdrawn until the contract has been terminated by performance, by agreement in writing between all parties, or by order of a court of competent jurisdiction, except as permitted in subsection (6) of this section.

(5) Upon licensure and each renewal, the principal broker shall sign a permit giving the commission the permission to audit all his escrow accounts.

(6) Upon being notified that one (1) or more parties to a contract intends not to perform, the broker may release the contract deposit as provided in the contract or if no provision is made in the contract, the broker may initiate the release process. The release process shall require the broker to notify all parties at their last known address by certified mail that the contract deposit shall be distributed to the parties specified in the letter ***unless all parties***[~~if the parties fail to perform,~~] enter into a written mutual release, or ***unless one (1) or more of the parties*** initiate litigation within sixty (60) days of the mailing date of the certified letter. If neither buyer nor seller initiates litigation or enters into a written release within sixty (60) days of the mailing date of the certified letter, the broker may release the deposit ***to the party identified in the certified letter*** without penalty under this section ***and without civil liability in the courts of the Commonwealth of Kentucky***.

(7) All principal brokers whose companies engage in property management shall maintain property management accounts separate from all other accounts.

(8) A broker or sales associate who owns rental property shall not be required to use the principal broker's management account for the rental property, unless required by the principal broker.

Section 10. KRS 324.112 is amended to read as follows:

(1) ***With the approval of his or her principal broker, any broker or***[~~No principal broker shall maintain a branch office outside a fifty (50) mile radius of the main office without having a broker managing the branch office.~~

~~(2) A~~] sales associate with two (2) years experience in the real estate business, averaging at least twenty (20) hours per week for a period of twenty-four (24) months prior, may manage a branch office ***of the principal broker***[~~inside a fifty (50) mile radius of the main office~~].

(2)[~~(3)~~]The licenses of all ***licensees***[~~brokers and sales associates~~] shall be kept on file in the ***main*** office ***of the principal broker with whom they are***[~~in which they are actively engaged and~~] affiliated.

(3) No broker or sales associate shall simultaneously affiliate with more than one (1) principal broker unless authorized by statute or by order of the commission.

(4) A principal broker in the process of closing a real estate brokerage business may affiliate temporarily with another principal broker if:

- ***(a) No other licensee is affiliated with the former principal broker;***
- ***(b) Both the former and the latter principal brokers represent to the commission that the affiliation is for the purpose of closing the former principal broker's business; and***
- ***(c) Both the former and the latter principal brokers give assurances satisfactory to the commission that no consumer will be adversely affected by the affiliation or the closing of the former principal broker's business.***

Section 11. KRS 324.115 is amended to read as follows:

(1) Except as provided in subsection (2) of this section, every broker licensed under KRS 324.045 shall maintain a definite place of business in this state***.***

(2) A[~~, except a~~] broker who is a nonresident shall not be required to maintain an active place of business in this state if***:***

- ***(a)*** He or she maintains a business place in the state of original licensure***;***
- ***(b) The state of original licensure, in accordance with its reciprocity agreement with the commission, does not require Kentucky licensees holding licenses in that state to maintain an office in that state; and***
- ***(c) Paragraphs (a) and (b) of this subsection do not conflict***[~~, unless this provision conflicts~~] with the commission's

agreement of reciprocity with the state of original licensure.

Section 12. KRS 324.117 is amended to read as follows:

(1) ***No real estate advertising shall be intentionally false, misleading, or deceptive***[~~Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company listed on the licensee's real estate license or the name of the principal broker and a designation indicating that the licensee is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising~~].

(2) ***Every licensee who advertises shall identify in all advertising materials either:***

(a) The real estate company listed on the license; or

(b) The name of the licensee's principal broker followed by the word "broker."

(3) The requirement of subsection (2) of this section shall not apply if the licensee is transacting business relating to the marketing, sale, or lease of property which the licensee owns.

(4) The name of a deceased broker may remain a part of the firm name.

(5)[~~(3)~~]No associate may have his or her name in the firm name.

[~~(4) Any sales associate or broker affiliated with a principal broker shall advertise in the name of the real estate company listed on the associate's or broker's real estate license or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.~~]

(6) The commission shall, by the promulgation of administrative regulations, define false, misleading, or deceptive advertising.

(7) The commission shall, by the promulgation of administrative regulations, define the manner in which licensees may utilize any internet electronic communication for advertising or marketing.

Section 13. KRS 324.121 is amended to read as follows:

(1) A principal broker may ***designate one (1) or more affiliated licensees***[~~appoint himself or herself or a licensee with which he or she is associated~~] to act as[~~ an~~] agent for a seller ***or lessor, to the exclusion of all other licensees affiliated with the principal broker. A principal broker may designate one (1) or more affiliated licensees to act as agent for a***[~~or~~] buyer ***or lessee,*** or prospective buyer ***or lessee*** to the exclusion of all other licensees ***affiliated***[~~associated~~] with the principal broker. ***The designation procedure shall be made in writing and communicated to all licensees affiliated with the principal broker. The designated agent shall inform and obtain the consent of the buyer or lessee, or prospective buyer or lessee to the designation.***

(2) If a principal broker ***designates***[~~appoints~~] one (1) ***or more licensees***[~~licensee~~] to represent the seller and ***one (1) or more other licensees***[~~another licensee~~] to represent the buyer or the prospective buyer in the same transaction, ***only*** the principal broker[~~, the firm, or the licensees~~] shall[~~ not~~] be deemed to be ***a*** dual ***agent representing the seller and buyer in a limited fiduciary capacity. As a dual agent, the principal broker shall not disclose to either party confidential information learned relative to the other party. Except as set forth in subsection (3) of this section, this designation shall not affect the principal broker's agency relationships in cooperative sales between consumers separately represented by nonaffiliated principal brokers***[~~agents~~].

(3) ***No exchange of information or***[~~If the licensees are appointed in accordance with subsection (1) of this section,~~] knowledge between or among ***consumers, whether*** the seller,[~~ the~~] buyer, ***lessor, or lessee, and*** the principal broker, the firm, or the licensees shall[~~ not~~] be imputed ***as a matter of law in any real estate transaction***.

(4) Nothing in this section shall prevent a real estate brokerage firm or licensee from entering into a dual agency relationship with ***consumers in a real estate transaction***[~~the seller and the buyer or the prospective buyer if the firm or licensee complies with the provisions of this chapter and administrative regulations promulgated by the commission on agency disclosure. Any licensee who, after such compliance, personally represents both the seller and the buyer in a particular transaction shall be deemed a disclosed dual agent~~].

Section 14. KRS 324.142 is amended to read as follows:

Any licensee who ***engages***[~~proposes to engage~~] in[~~ sales of a~~] promotional ***activities***[~~nature~~] in this Commonwealth for property located outside of this Commonwealth shall first apply to the commission for its approval before so doing, and shall comply with administrative regulations, restrictions, and conditions the commission may impose as well as those provisions set forth in this chapter.

Section 15. KRS 324.150 is amended to read as follows:

(1) The commission or its staff may on its own initiative ***investigate the actions of any licensee or any person who acts in that capacity.***[~~, and shall~~] On the verified written complaint of any person, ***the commission shall*** investigate the actions of any[~~ broker or sales associate or any~~] person who assumes to act in ***that***[~~such~~] capacity, if the complaint,[~~ or complaint~~] together with ***any***[~~other~~] evidence presented in connection with it, ***alleges***[~~makes out~~] a prima facie case ***that a violation set out in Section 17 of this Act has been committed. After the investigation, the commission***[~~. It~~] may ***order a hearing***

and, in appropriate cases, take disciplinary action against~~[suspend or revoke]~~ any ***licensee who is found in violation of***~~[license for grounds stated in]~~ KRS 324.160.

(2) To investigate allegations of practices violating the provisions of this chapter, the commission may:

(a) Issue subpoenas to compel attendance of witnesses and the production of documents;

(b) Administer oaths;

(c) Examine witnesses; and

(d) Pay appropriate witness fees.

Section 16. KRS 324.151 is amended to read as follows:

(1) All complaints against licensees shall be submitted to the commission on forms furnished by the commission. The complaint shall state facts which, if true, would ***constitute***~~[make out]~~ a prima facie case ***that the licensee has violated the provisions of Section 17 of this Act***~~[against the licensee]~~. ***If the complaint does not constitute a prima facie case, the commission shall allow the complainant ten (10) days to revise and supplement the complaint in order to cure any defect. If the complainant fails to respond within ten (10) days or if the revised and supplemented complaint does not constitute a prima facie case that the licensee has violated the provisions of Section 17 of this Act, the commission shall dismiss the matter without requiring the licensee to file or serve a response.***

(2) ***If the complaint constitutes a prima facie case that a licensee has violated the provisions of Section 17 of this Act,*** a copy of the complaint, exhibits attached thereto, and any subsequent pleadings, shall be served on the licensee~~[defendant]~~, by the commission, at the licensee's last known address and shall show certification that there has been service by writing to the last known address.

(3) ***If the commission serves the complaint upon the licensee,*** the~~[defendant]~~ licensee shall file with the commission an answer to the complaint***,***~~[and]~~ properly notarized, on forms secured from commission offices. The answer shall be returned to the commission within twenty (20) days***. The licensee shall deliver to the complainant at his last known address***~~[and]~~ a copy of the answer, exhibits attached thereto, ***and***~~[as well as]~~ any subsequent pleadings~~[, shall be served on complainant and shall show certification that there has been service by writing to the last known address]~~. All further pleadings in the matter filed with the commission by either party shall show that a copy has been furnished to the opposing party or parties.

Section 17. KRS 324.160 is amended to read as follows:

(1) The commission may ***order any or all of the following sanctions for violation of subsections (4) to (7) of this section:***

(a) Suspension of any license;~~[suspend or]~~

(b) Revocation of~~[revoke]~~ any license***;***~~[or]~~

(c) Levy ***of*** fines not to exceed ***one thousand dollars ($1,000);***~~[five hundred dollars ($500), or both, and]~~

(d) Placing of~~[place]~~ any licensee on probation for a period of up to twelve (12) months***;***~~[or]~~

(e) Requiring~~[require]~~ successful completion of academic credit hours ***or additional credit hours*** in real estate courses from an accredited ***institution*** or approved real estate school***;*** or

(f) Issuing~~[issue]~~ a formal ***or informal*** reprimand***.***~~[or order a licensee to pay restitution in an amount to be determined by the commission after a hearing, as a condition of continued licensure, for any of the following causes:]~~

(2) A canceled license may be renewed if the licensee pays all necessary fees and meets all other active licensure requirements within one (1) year of the cancellation date. No licensee whose license is canceled shall engage in real estate brokerage during the period of cancellation or receive any compensation for real estate brokerage unless the compensation was earned prior to the effective date of the cancellation.

(3) No licensee whose license is suspended shall engage in real estate brokerage or receive any compensation for real estate brokerage unless the compensation was earned prior to the suspension period.

(4) The commission shall impose sanctions set out in subsection (1) of this section against a licensee for:

(a) Obtaining a license through false or fraudulent representation;

(b) Making any substantial misrepresentation or failing to disclose known defects which substantially affect the value of the property;

(c) Making any false promises of a character likely to influence, persuade, or induce;

(d) Pursuing a continued and flagrant course of misrepresentation or making false promises through agents or advertising or otherwise;

(e) Acting for more than one (1) party in a transaction without the knowledge of all parties for whom the licensee acts;

1. A real estate licensee shall not directly or indirectly buy property listed with him or her ***or with the broker with whom the licensee is affiliated,*** nor acquire an interest therein***,*** without ***first indicating in writing on***

the offer to purchase his or her status as a licensee[~~making his or her true position clearly known in writing on the sales contract or offer to purchase~~];

2. Before a[~~ real estate~~] licensee ***becomes a party to a contract to purchase real property, the licensee shall disclose his or her status as a licensee to all parties to the transaction, in writing, on the sales contract or on the offer to purchase;***[~~buys,~~]

3. ***Before a licensee*** sells, or receives compensation for property in which the licensee owns an interest, the licensee shall disclose***, in writing,*** any interest in the property to all parties to the transaction;

(f) Accepting valuable consideration for the performance of any of the acts specified in this chapter, from any person, except from his or her principal broker ***in accordance with a compensation agreement between them***[~~at the time the brokerage agreement was obtained~~]. When acting as an agent in the management of property, a real estate licensee shall not accept any commission, rebate, or profit on expenditures made for a client without the full knowledge and consent of the client;

(g) Representing or attempting to represent a broker other than a principal broker, without the express knowledge and consent of ***the***[~~that~~] principal broker ***with whom the licensee is affiliated***;

(h) Failing to account for or remit, within a reasonable time, any money belonging to others that comes into the licensee's possession. When acting as a property manager, the licensee shall render an accounting and remit all moneys to his or her client strictly in accordance with the contract of employment;

(i) Paying valuable consideration to any person for services performed in violation of this chapter;

(j) Entering a plea of guilty or an "Alford" plea to, or having been found guilty of, or having been convicted of, a felony ***or of a misdemeanor involving sexual misconduct***[~~and~~] the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal, irrespective of an order granting probation following the conviction[~~,~~] suspending the imposition of sentence***;***[~~, or~~]

(k) Failing to report a[~~ felony~~] conviction,[~~ or~~] plea of guilty[~~ to a felony~~], or an "Alford" plea to a felony ***or a misdemeanor involving sexual misconduct*** to the commission;[~~or ~~]

(l) Soliciting, selling, or offering for sale real property under a scheme or program that constitutes a lottery, contest, or deceptive practice***;***[~~, or~~]

(m) Offering prizes for the purpose of influencing a purchaser or prospective purchaser of real estate***;***[~~, or~~]

(n) Acting in the dual capacity of ***licensee***[~~broker~~] and undisclosed principal in ***any real estate***[~~the~~] transaction;

(o)[~~(k)~~]Guaranteeing, authorizing, or permitting a person to guarantee that future profits shall result from a resale of real property;

(p)[~~(l)~~] Negotiating or attempting to negotiate the sale, exchange, lease, or rental of real property, or attempting to obtain a brokerage agreement with ***a consumer***[~~an owner or lessor~~] knowing that the ***consumer***[~~owner or lessor~~] had a written outstanding contract granting exclusive agency ***with***[~~in connection with the property to~~] another real estate broker;

(q)[~~(m)~~] Publishing or circulating an unjustified or unwarranted threat of legal proceedings or other action;

(r)[~~(n)~~] Failing or refusing on demand to furnish copies of a document pertaining to a transaction dealing with real estate to a person whose signature is affixed to the document;

(s)[~~(o)~~] Failing, within a reasonable time, to provide information requested by the commission as a result of a formal or informal complaint to the commission which may indicate a violation of this chapter;

[~~(p) Paying valuable consideration to any person for the name of potential sellers or buyers, except as otherwise provided in KRS 324.020(3);~~]

(t)[~~(q)~~] Violating any of the provisions in this chapter or any lawful order, rule, or administrative regulation made or issued under the provisions of this chapter;

(u)[~~(r)~~] Any other conduct that constitutes improper, fraudulent, or dishonest dealing; or

(v)[~~(s)~~] Gross negligence.

(5)[~~(2)~~]Any conduct constituting an act of discrimination regarding a person's race, color, creed, sex, or national origin, including use of scare tactics or blockbusting, shall be considered improper conduct as referred to in subsection ***(4)(u)***[~~(1)(r)~~] of this section.

(6)[~~(3)~~]No unlawful act or violation of any provision of this chapter by any affiliated licensee of the principal broker shall be cause for holding the principal broker primarily liable, unless the broker has knowledge of the unlawful violation and did not prevent it. The principal broker and his or her designated manager, if any, shall exercise adequate supervision over the activities of licensed affiliates and all company employees to ensure that violations of this chapter do not occur. ***The***[~~A principal broker's~~] failure ***of a broker or his designated manager*** to exercise adequate supervision of the licensed affiliates shall constitute a violation of this chapter.

(7)[~~(4)~~]The practice of obtaining, negotiating, or attempting to negotiate "net listings" shall be considered improper dealing.

Section 18. KRS 324.170 is amended to read as follows:

(1) The commission shall, before denying an application for license or before ***ordering any disciplinary action against a licensee,***[~~suspending or revoking any license, set the matter down for~~] ***order*** a hearing. The hearing shall be conducted in accordance with the provisions of KRS Chapter 13B. If the applicant or licensee is a sales associate, the commission shall also notify the principal broker of the hearing by mailing notice by certified mail, return receipt requested, to the broker's last known business address. The commission shall order the presence of the principal broker ***or his designated representative*** at the hearing.

(2) All hearings shall be conducted by a quorum of the commission or by a hearing officer appointed by the commission. Hearing officers shall not ***order any disciplinary action against a licensee***[~~suspend, revoke, or fine any licensee or place any licensee on probation~~]. The function of hearing officers appointed to conduct hearings shall be to preside at the hearing and to prepare a recommended order to be submitted to the commission.

Section 19. KRS 324.200 is amended to read as follows:

(1) If the commission ***determines***[~~shall determine~~] after a hearing that any applicant is not entitled to receive a license, a license shall not be granted to the applicant, and if the commission ***determines***[~~shall determine~~] after a hearing that any licensee ***has violated***[~~is guilty of a violation of~~] any of the provisions of this chapter, the ***disciplinary measures in subsection (1) of Section 17 of this Act may be ordered***[~~license shall be suspended or revoked~~].

(2) Any party aggrieved by the action of the commission in refusing to grant a license or in ***ordering any disciplinary action***[~~suspending or revoking a license~~] may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B. Disciplinary action imposed by the commission shall be automatically stayed during the pendency of an appeal to a circuit or appellate court, unless otherwise indicated in the final order of the commission.

Section 20. KRS 324.220 is amended to read as follows:

No person who has had a broker's or sales associate's license revoked shall be issued another license for five (5) years from the date of revocation. All persons seeking issuance of another license after ***the five (5) year period of*** revocation may do so only at the discretion of the commission and shall retake the appropriate examination and meet all of the contemporary licensing requirements.

Section 21. KRS 324.230 is amended to read as follows:

The revocation ***or suspension*** of a principal broker's license shall automatically ***render inactive***[~~suspend~~] every license granted to any person by virtue of association with the principal broker whose license has been revoked ***or suspended***, pending a change of principal broker and the issuance of a new license. Such new license shall be issued without charge, if granted during the same year in which the original license was granted.

Section 22. KRS 324.281 is amended to read as follows:

(1) There is hereby created the Kentucky Real Estate Commission. The Governor shall appoint five (5) persons, at least four (4) of whom, immediately prior to the date of their appointment have been residents of the state for ten (10) years and whose vocation for a period of at least ten (10) years shall have been that of an active real estate licensee. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The term of the members of the commission shall be for four (4) years and until their successors are appointed and qualify, except as provided in subsections (2) and (3) of this section.

(2) ***All***[~~Vacancies occurring in 1984 shall be filled by one (1) appointment for a three (3) year term and one (1) appointment for a four (4) year term; all subsequent~~] appointments shall be for the specified four (4) year term.

(3) For each appointment or vacancy, the Kentucky Association of Realtors shall supply a list of not less than three (3) names of licensees to the Governor each year from which the broker or sales associate appointments shall be made. The Governor may fill vacancies arising in the middle of the year from those remaining on the list or from a new list supplied by the association.

(4) There shall not be more than three (3) of any one (1) political party serving on the commission at the same time. Appointees to fill vacancies shall be appointed for the unexpired term.

(5) It shall be the duty of the commission to ***promulgate***[~~draft~~] administrative regulations; to hold disciplinary hearings concerning matters in controversy as provided by this chapter; to conduct examinations for applicants eligible under this chapter ***or alternatively to contract with an entity to conduct examinations***; to conduct necessary educational seminars and courses directed toward continuing education within the real estate field; to investigate or cause to be investigated any irregularities in violation of this chapter or the promulgated and authorized administrative regulations of the commission; to participate with any other agency of the Commonwealth or the authorized agency of another state for the betterment or improvement of the administration of the statutes or administrative regulations governing this commission. Any action taken by the commission under this subsection shall be appealable as are other actions of the commission under this chapter.

(6) The commission, at its discretion, may use the funds necessary to purchase liability insurance for members and executive officers of the commission, inspectors, and for members of the staff exempted from classified service of the state by KRS 18A.115.

(7) The commission shall require all actively-licensed agents, except for those agents who were licensed prior to June 19, 1976, to successfully complete mandatory continuing education as a condition of license renewal.~~[The commission shall implement this provision by promulgating an administrative regulation. The classroom hours of mandatory continuing education shall be six (6) hours per year. Two (2) of the six (6) hours shall pertain to the study of real estate law.]~~

(8) The commission shall, by the promulgation of administrative regulations, develop a review process by which continuing education courses may be approved for credit. An applicant may seek the commission's approval for credit for courses not previously approved by the commission by submitting sufficient information describing the course to the commission for review.

Section 23. KRS 324.2811 is amended to read as follows:

A member shall be automatically removed from the commission and a vacancy shall be created if:

(1) A licensee of the commission ceases to be a broker or sales associate;

(2) A consumer member of the commission acquires a license or ***financial*** interest in the practice of real estate;

(3) A member enters a plea of guilty to, or has been found guilty of, a felony in which fraud is an essential element or to any crime involving moral turpitude and the time for appeal has lapsed or the judgment or conviction has been affirmed on appeal; or

(4) A member ceases to be a bona fide resident of this Commonwealth.

Section 24. KRS 324.282 is amended to read as follows:

The commission, immediately upon qualification of the member appointed in each year, shall organize by selecting from its members a chairperson~~[, and may do all things necessary and convenient for carrying into effect the provisions of this chapter]~~. The commission ***shall***~~[may from time to time]~~ promulgate~~[necessary]~~ administrative regulations ***in accordance with KRS Chapter 13A and this chapter to effectively carry out and enforce the provisions of this chapter***, but the commission shall not promulgate any administrative regulation which in any way fixes prices***, establishes fees, or sets the rate at which licensees are compensated***~~[or commissions]~~.

Section 25. KRS 324.287 is amended to read as follows:

The commission shall ***set,*** charge***,*** and collect the following fees:

(1) Examination fee, not to exceed ***one hundred dollars ($100)***~~[seventy-five dollars ($75)]~~.

(2) Broker's and sales associate's original license fee, not to exceed thirty dollars ($30).

(3) Broker's and sales associate's renewal fee, not to exceed thirty dollars ($30).

(4) Transfer from one (1) principal broker to another, not to exceed ten dollars ($10).

(5) Certification of status with the commission, ten dollars ($10).

(6) Request for any change, not to exceed ten dollars ($10).

(7) Recovery fund, not to exceed thirty dollars ($30).

(8) Broker's and associate's applicant license criminal record check fee, not to exceed thirty dollars ($30).

Section 26. KRS 324.288 is amended to read as follows:

No affiliation fee shall be charged in any year to a licensee. As used in this section, "affiliation ***fee***"~~[fee]~~ means any fee or compensation paid by a licensee, to any person, for the privilege of listing his license with a particular principal broker, in records submitted to the commission.

Section 27. KRS 324.310 is amended to read as follows:

(1) If any sales associate is discharged or terminates his association with the principal broker, it shall be the duty of the broker to immediately deliver or mail to the commission the sales associate's license with the release statement signed by the principal broker. The broker shall, at the time of mailing the sales associate's license to the commission, address a communication to the last known residence address of the sales associate, which shall advise the sales associate that his license has been delivered or mailed to the commission. A copy of the communication to the sales associate shall accompany the license when mailed or delivered to the commission. It shall be unlawful for any sales associate to perform any of the acts contemplated by this chapter either directly or indirectly under authority of his license from and after the date of receipt of the license from the broker by the commission.

(2) A licensee may place his license in escrow with the commission provided that:

(a) The licensee does not engage in any real estate activity for others during the term of escrow of the license; and

(b) The licensee pays the annual license renewal fees for each year the license is in escrow.

(3) At the request of the licensee***,***~~[and]~~ upon the meeting of requirements applicable to active licensees ***and completion of all***

continuing education requirements, a license placed in escrow shall be automatically converted to an active license upon payment of the established change fee.

Section 28. KRS 324.312 is amended to read as follows:

A principal broker shall return an associate's license to the commission upon request. A principal broker that fails to return a license to the commission upon request shall be in violation of ***subsection (4)(u) of*** KRS 324.160[~~(1)(r)~~].

Section 29. KRS 324.360 is amended to read as follows:

(1) This section shall apply to sales and purchases involving ***single-family*** residential real estate ***dwellings*** if any person licensed under this chapter receives compensation.

(2) The commission shall promulgate an administrative regulation authorizing a "seller's disclosure of conditions form."

(3) The form shall provide for disclosure by the seller of the following:

  (a) Basement condition and whether it leaks;

  (b) Roof condition and whether it leaks;

  (c) Source and condition of water supply;

  (d) Source and condition of sewage service;

  (e) Working condition of component systems; and

  (f) Other matters the commission deems appropriate.

(4) ***The seller of the property shall complete and sign the form at the time he or she executes any listing agreement or similar agreement by which a licensee intends to market the property. A copy of the form shall be provided by the listing agent to any prospective buyer or a buyer's authorized representative upon request. A copy of the form shall be delivered by the listing agent to any prospective purchaser or his representative within seventy-two (72) hours of the listing agent's receipt of a written and signed offer to purchase. The listing agent shall solicit the signature of the buyer on a copy of the form which the listing agent shall retain in the principal broker's records. The signature shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his principal broker's records***[~~The form shall be completed and signed by the seller at the time of listing for sale or, for property not listed for sale, completed and signed by the seller within five (5) business days of any executory contract for sale of the residential real estate. The form shall not be required for residential purchases of new homes if a written warranty is offered, for a sale of real estate at auction, or for a court supervised foreclosure~~].

(5) ***If the subject property is offered for sale by the property's owner without a listing agreement, any licensee involved in the transaction shall provide a blank form to the property's owner and shall request that the property's owner complete and sign the form. If the property's owner completes and signs the form, the licensee shall deliver the form to the buyer or potential buyer not later than one hundred twenty (120) hours after the creation of any executory contract for sale of the property. The licensee shall solicit the signature of the buyer on a copy of the form as delivered to the buyer or prospective buyer and shall retain the copy in his or her principal broker's records. The signature of the buyer or prospective buyer shall evidence the listing agent's compliance with the provisions of this section. Should the buyer refuse to sign the form, the licensee shall record the buyer's refusal to sign on the form and retain a copy in his or her principal broker's records***[~~An accurate copy of the completed form shall be retained by the licensed broker or sales associate who receives compensation in the transaction. An accurate copy shall be delivered to any prospective purchaser upon request and to any prospective purchaser making a signed written offer to purchase, without unreasonable delay. Delivery shall be the responsibility of the broker or sales associate who anticipates being compensated in the transaction~~].

(6) ***The original of the form shall be retained by the listing broker or by the broker of any licensee who presents an offer on a property not subject to a listing agreement.***

(7) The form shall not be required for residential purchases of new homes if a written warranty is offered, for a sale of real estate at an auction, or for a court supervised foreclosure.

(8) If the seller refuses to complete and sign the form, his refusal shall be communicated in writing by the broker or sales associate who ***is involved***[~~anticipates being compensated~~] in the transaction to the purchaser or prospective purchaser, without unreasonable delay.

(9) It shall be a violation of this chapter for a licensee to complete any portion of the form unless the licensee is the owner of the property or has been requested by the owner to complete the form. The request shall be acknowledged in writing on the form and the licensee shall be held harmless for any representation that appears on the form.

Section 30. KRS 324.395 is amended to read as follows:

(1) All real estate licensees, except those whose licenses are in escrow in accordance with KRS 324.310(2), shall carry errors and omissions insurance to cover all activities contemplated under this chapter.

(2) The commission shall make the insurance mandated under this section available to all licensees by contracting with an insurance provider for a group policy, after competitive, sealed bidding in accordance with KRS Chapter 45A.

(3) Any policy obtained by the commission shall be available to all licensees with no right on the part of the insurance provider to cancel any licensee.

(4) Licensees shall have the option of obtaining errors and omissions insurance independently, if the coverage contained in the policy and the financial condition of the insurance company complies with the minimum requirements established by the commission.

(5) The commission shall determine the terms and conditions of coverage mandated under this section, including, but not limited to, the minimum limits of coverage, the permissible deductible, and permissible exemptions.

(6) Each licensee shall be notified of the required terms and conditions of coverage for the annual policy at least thirty (30) days prior to the annual license renewal date. A certificate of coverage, showing compliance with the required terms and conditions of coverage, shall be filed with the commission by the annual license renewal date by each licensee who opts not to participate in the group insurance program administered by the commission.

(7) If the commission is unable to obtain errors and omissions insurance coverage to insure all licensees who choose to participate in the group insurance program at a reasonable premium, not to exceed one hundred twenty-five dollars ($125), the insurance requirement mandated by this section shall be void during the applicable contract year.

~~[(8) The errors and omissions insurance mandated by this section shall become effective April 1, 1987.]~~

Section 31. KRS 324.400 is amended to read as follows:

(1) There is hereby created and established in the State Treasury the real estate education, research, and recovery fund.

(2) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, upon renewal of every broker's and sales associate's license, as well as any and all other types of licenses, if any, issued by the commission, as of June 30, 1972, and every regular annual renewal date thereafter, the commission shall charge each of the aforesaid licensees an amount not to exceed thirty dollars ($30) per year to be included in the real estate education, research, and recovery fund. Each and every original applicant for a license after July 1, 1972, shall likewise submit to the commission an additional fee of thirty dollars ($30) to be deposited in the real estate education, research, and recovery fund and shall also be subjected thereafter to an annual renewal fee as of the regular renewal period.

(3) In addition to the license fees provided for in ***Section 25 of this Act***~~[KRS 324.070]~~, the commission, based upon its own discretion as to need, may assess each licensee upon renewal an amount less than thirty dollars ($30) per year, or nothing, but not more. Each original applicant must pay the original amount of thirty dollars ($30), but on renewal will be subjected to the same renewal amount as other licensees.

Section 32. KRS 324.420 is amended to read as follows:

(1) An aggrieved party ***may***~~[shall]~~ commence an ***administrative*** action which may result in collection from the recovery fund by first filing ***a complaint*** with the commission on a form prepared by the commission. ***The complaint shall constitute a prima facie case that a licensee is in violation of Section 17 of this Act and is subject to the same conditions set forth in Section 15 of this Act. If the complaint constitutes a prima facie case and the matter is not settled,*** the commission shall hold a hearing pursuant to the requirements set forth in the provisions of this chapter and KRS Chapter 13B to determine if a violation of this chapter has in fact occurred. If a violation of fraud is so found, the commission shall determine if the violation resulted in damages to complainant and in what amount. If damages cannot be accurately determined, then the amount of damages shall be determined by a Circuit Court in the county where the violation took place. In the event the question of damages is referred to the Circuit Court, the decision of the commission will not be final and appealable until the question of damages is certifiable.

(2) Upon final order by the commission or upon certification to the commission by the Circuit Court on the issue of damages, and after the licensee has refused to pay the claim within a period of twenty (20) days of entry of a final order, the aggrieved party or parties shall be paid the amount or amounts by the commission from the recovery fund.

(3) The license of the licensee against whom the claim was made by the aggrieved party shall be suspended or may be permanently revoked until such time as the licensee has reimbursed the recovery fund in full for all amounts paid, plus interest at the rate of ten percent (10%) per annum.

(4) Any party aggrieved by a final order of the commission may appeal to the Circuit Court where the licensee has his principal place of business or where the applicant resides in accordance with KRS Chapter 13B.

(5) Upon the final order of the court, and after the commission has paid from the real estate education, research, and recovery fund any sum to the aggrieved party, the commission shall be subrogated to all of the rights of the aggrieved party to the extent of the payment. The aggrieved party shall to the extent of the payment assign his right, title and interest in the judgment to the commission. After such assignment, the commission may challenge in bankruptcy court any attempt by a former licensee to discharge the debt, if proper notice is given. Any funds recovered by the commission shall be deposited in the real estate education, research, and recovery fund.

(6) No aggrieved party shall be entitled to recover compensation from the real estate education, research, and recovery fund unless the action against the licensee is commenced within two (2) years from actual knowledge of the cause of action or from the time when circumstances should reasonably have put the aggrieved party on notice of the cause of action.

(7) For purposes of this section, an "aggrieved party" shall mean either:

(a) A member of the consumer public who stands in a direct relationship to the licensee, i.e., one who demonstrates an interest in purchasing, leasing, renting, or otherwise securing an interest in real estate through a licensee ***and who believes that the licensee is in violation of the provisions of this chapter***; or

(b) ***A member of the consumer public***[~~One~~] who directly engages the services of a licensee for purposes of selling, leasing, renting, or otherwise dealing in ***his or her***[~~their~~] own property.

(8) If at any time the money on deposit in the real estate education, research and recovery fund is insufficient to satisfy any duly-authorized claim or portion thereof, the commission shall, when sufficient money has been deposited in the real estate education, research, and recovery fund, satisfy such unpaid claim or portions thereof, in the order that such claims or portions were originally filed, plus accumulated interest at the rate of ten percent (10%) per annum.

(9) Any funds in excess of the four hundred thousand dollar ($400,000) level which are not being currently used, may be invested and reinvested as set forth in subsection (2) of KRS 324.410.

Section 33. KRS 324.425 is amended to read as follows:

In case of death ***or other incapacity*** of a principal broker having a licensed sales associate or sales associates affiliated at the time of death ***or other incapacity***, the commission reserves the right in its discretion, based upon the merits of each case, to permit one (1) of the sales associates to complete and close the then existing business of the deceased ***or incapacitated*** broker for a temporary period not to exceed six (6) months.

Section 34. The following KRS sections are repealed:

324.070 License fees.

324.340 Power of cities to regulate brokers not affected.

HB 839, AN ACT relating to the unauthorized practice of law.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 524.130 is amended to read as follows:

(1) Except as provided in KRS 341.470 and ***subsections***[~~subsection~~] (2) ***and (3)*** of this section, a person is guilty of unlawful practice of law when, without a license issued by the Supreme Court, he engages in the practice of law, as defined by rule of the Supreme Court.

(2) A licensed nonresident attorney in good standing, although not licensed in Kentucky, is not guilty of unlawful practice if, in accordance with rules adopted by the Supreme Court, he practices law under specific authorization of a court.

(3) ***The following actions shall not be construed as the unauthorized practice of law:***

(a) The closing of any and all real estate transactions by Kentucky licensed real estate agents who have errors and omissions insurance in the amount specified by the Kentucky Real Estate Commission by administrative regulation, unless a federal regulation prohibits doing so;

(b) The closing of any and all real estate transactions by employees, acting as loan officers, of banks, savings and loan associations, credit unions, and other lending institutions which hold a state or federal license authorizing the organization to do business in Kentucky; and

(c) The closing of any and all real estate transactions by employees of title search companies, provided that they do so under the supervision of an attorney licensed to practice in Kentucky.

(4) Unlawful practice of law is a Class B misdemeanor.

The Committee Amendment No. 1 Title to **HB 839** is as follows:

By amending the title to read as follows: AN ACT relating to real estate.

HB 885, AN ACT relating to racing personnel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.230 is amended to read as follows:

(1) The Governor shall appoint an executive director for the commission for a term of four (4) years[~~ and~~] who may be removed in the same manner as a commissioner. The executive director shall possess the powers and perform the duties imposed upon him by this chapter, and[~~ such~~] other duties as the commission may direct or prescribe. The executive director shall cause to be kept a full record of all proceedings before the commission and shall preserve at its general office all books, maps, records, documents, licenses, and other papers of the commission. All records of the commission shall be open to inspection by the public during regular office hours.

(2) The ***chairman and the executive director of the*** commission may employ***, dismiss, or take other personnel action concerning*** an assistant executive director,~~[and]~~ stenographers, clerks, and other personnel as ***they***~~[it]~~ may deem necessary to efficiently operate ***the commission's***~~[its]~~ general office or any branch thereof. The ***chairman and the executive director of the*** commission shall fix the compensation of all employees. Any member of the commission,~~[or]~~ the executive director, or any employee referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the ***executive director of the*** commission. The compensation of the employees referred to in this section, except for the executive director, together with reimbursement of expenses incurred by employees, a member of the commission, or the executive director, shall be paid from commission funds.

Section 2. KRS 230.240 is amended to read as follows:

(1) In addition to the employees referred to in KRS 230.230, the ***chairman or the executive director of the*** commission may employ, ***dismiss, or take other personnel action and determine the***~~[at]~~ reasonable compensation ***of***~~[,]~~ stewards, supervisors of mutuels, veterinarians, inspectors, accountants, ***security officers***~~[guards]~~, and other employees deemed by the commission ***or the executive director*** to be essential at or in connection with any horse race meeting and ***in***~~[to]~~ the best interest of racing. ***The security officers shall be peace officers and conservators of the peace on commission property and all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers, privileges, immunities, and defenses now available or hereafter made available to sheriffs, constables, and police officers. The safety and security department created and operated by the commission shall, for all purposes, be deemed a public police department and the sworn safety officers of the department are for all purposes deemed to be public police officers.*** The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section~~[shall]~~ have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate administrative regulations for effectively preventing the use of improper devices, ***and restricting or prohibiting*** the ***use and*** administration of drugs or stimulants or other improper acts ***to***~~[for the purpose of affecting the speed or health of]~~ horses ***prior to the horse participating in a race.***~~[in races in which they are to participate, and in connection therewith]~~ The commission ***may***~~[is authorized to]~~ acquire, operate, and maintain, or~~[to provide by]~~ contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with such laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the commission shall by administrative regulation provide.

(3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed. The salary of the executive director to the commission shall be prorated among and paid by the various associations licensed under this chapter in the manner as the commission shall, by administrative regulation, provide. The employees referred to in this section shall be deemed employees of the commission, and are paid by the licensee or association for convenience only.

(4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed ***to***~~[that it shall]~~ pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

The Committee on State Government reported **HB 721, HB 814,** and **SJR 57,** with House Committee Substitute and House Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 721, AN ACT relating to state officers and employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBCHAPTER 2 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

There is created within the Cabinet for Economic Development the Department for Technology Development. The department shall be headed by a commissioner who shall be appointed by the Governor in accordance with KRS 12.040 and who shall be exempt from the salary limitations set forth in Section 3 of this Act. The department shall coordinate the recruitment and development of technology-advanced companies that will enhance the overall viability of Kentucky's economy.

Section 2. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Division of Kentucky State Medical Examiners Office.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.
            (2) Education Professional Standards Board.
        (b) Department for Libraries and Archives.
        (c) Kentucky Arts Council.
        (d) Kentucky Educational Television.
        (e) Kentucky Historical Society.
        (f) Kentucky Teachers' Retirement System Board of Trustees.
        (g) Kentucky Center for the Arts.
        (h) Kentucky Craft Marketing Program.
        (i) Kentucky Commission on the Deaf and Hard of Hearing.
        (j) Governor's Scholars Program.

(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
   (a) Environmental Quality Commission.
   (b) Kentucky Nature Preserves Commission.
   (c) Department for Environmental Protection.
   (d) Department for Natural Resources.
   (e) Department for Surface Mining Reclamation and Enforcement.
   (f) Office of Legal Services.
   (g) Office of Information Services.
4. Transportation Cabinet:
   (a) Department of Highways.
   (b) Department of Vehicle Regulation.
   (c) Department of Administrative Services.
   (d) Department of Fiscal Management.
   (e) Department of Rural and Municipal Aid.
   (f) Office of General Counsel.
   (g) Office of Public Affairs.
   (h) Office of Personnel Management.
   (i) Office of Minority Affairs.
   (j) Office of Environmental Affairs.
   (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
   (a) Department of Administration and Support.
   (b) Department of Job Development.
   (c) Department of Financial Incentives.
   (d) Department of Community Development.
   (e) ***Department for Technology Development.***
   (f) Tobacco Research Board.
   (g)[~~(f)~~] Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
   (a) Public Service Commission.
   (b) Department of Insurance.
   (c) Department of Housing, Buildings and Construction.
   (d) Department of Financial Institutions.
   (e) Department of Mines and Minerals.
   (f) Department of Public Advocacy.
   (g) Department of Alcoholic Beverage Control.
   (h) Kentucky Racing Commission.
   (i) Board of Claims.
   (j) Crime Victims Compensation Board.
   (k) Kentucky Board of Tax Appeals.
   (l) Backside Improvement Commission.
   (m) Office of Petroleum Storage Tank Environmental Assurance Fund.
7. Cabinet for Families and Children:

(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Office of Capital Plaza Operations.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.
(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
(w) Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.

- (d) Occupational Safety and Health Standards Board.
- (e) Prevailing Wage Review Board.
- (f) Workers' Compensation Board.
- (g) Kentucky Employees Insurance Association.
- (h) Apprenticeship and Training Council.
- (i) State Labor Relations Board.
- (j) Kentucky Occupational Safety and Health Review Commission.
- (k) Office of Administrative Services.
- (l) Office of Labor-Management Relations and Mediation.
- (m) Office of General Counsel.
- (n) Workers' Compensation Funding Commission.
- (o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
    - (a) Department of Property Valuation.
    - (b) Department of Tax Administration.
    - (c) Office of Financial and Administrative Services.
    - (d) Department of Law.
    - (e) Department of Information Technology.
    - (f) Office of Taxpayer Ombudsman.
12. Tourism Development Cabinet:
    - (a) Department of Travel.
    - (b) Department of Parks.
    - (c) Department of Fish and Wildlife Resources.
    - (d) Kentucky Horse Park Commission.
    - (e) State Fair Board.
    - (f) Office of Administrative Services.
    - (g) Office of General Counsel.
13. Cabinet for Workforce Development:
    - (a) Department for Adult Education and Literacy.
    - (b) Department for Technical Education.
    - (c) Department of Vocational Rehabilitation.
    - (d) Department for the Blind.
    - (e) Department for Employment Services.
    - (f) State Board for Adult and Technical Education.
    - (g) Governor's Council on Vocational Education.
    - (h) The State Board for Proprietary Education.
    - (i) The Foundation for Adult Education.
    - (j) The Kentucky Job Training Coordinating Council.
    - (k) Office of General Counsel.
    - (l) Office of Communication Services.
    - (m) Office of Development and Industry Relations.
    - (n) Office of Workforce Analysis and Research.
    - (o) Office for Administrative Services.
    - (p) Office for Policy and Budget.
    - (q) Office of Personnel Services.
    - (r) Unemployment Insurance Commission.
14. Personnel Cabinet:
    - (a) Office of Administrative and Legal Services.

(b) Department for Personnel Administration.

(c) Department for Employee Relations.

(d) Kentucky Public Employees Deferred Compensation Authority.

(e) Kentucky Kare.

(f) Division of Performance Management.

(g) Division of Employee Records.

(h) Division of Staffing Services.

(i) Division of Classification and Compensation.

(j) Division of Employee Benefits.

(k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:

1. Department of Military Affairs.

2. Council on Postsecondary Education.

(a) Kentucky Commission on Community Volunteerism and Service.

3. Department for Local Government.

4. Kentucky Commission on Human Rights.

5. Kentucky Commission on Women.

6. Department of Veterans' Affairs.

7. Kentucky Commission on Military Affairs.

8. Office of the Chief Information Officer.

Section 3. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the Personnel Cabinet shall prepare a schedule of compensation, payable out of the State Treasury, with a minimum and maximum salary rate, and such intermediate salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, or other unit of state government. Such schedules shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Personnel Cabinet shall ascertain and record the duties, responsibilities, and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor.

(2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the ***total taxable compensation of the Governor derived from state sources***~~[amount provided for compensation to the Governor in KRS 64.480]~~, the provisions of KRS 64.660 to the contrary notwithstanding. ***For the purposes of this section, the total taxable compensation of the Governor from state sources shall include the amount provided for compensation to the Governor under KRS 64.480 and any benefits or discretionary spending accounts that are imputed as taxable income for federal income tax purposes.***

(3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the Personnel Cabinet with the approval of the Governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

Section 4. KRS 61.938 is amended to read as follows:

(1) To assist the chief information officer and to provide necessary support as required to carry out the powers and duties of

the chief information officer, the Office of the Chief Information Officer is hereby established and attached for administrative purposes to the Office of the Governor. ***The chief information officer may hire a deputy chief information officer who shall be exempt from the salary limitations as set forth in Section 3 of this Act.***

(2) The Office of the Chief Information Officer shall have the authority to solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation.

(3) The Office of the Chief Information Officer may solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with KRS 61.935 to 61.938.

(4) The Office of the Chief Information Officer is hereby designated a state agency for the receipt of federal funds related to information technology.

(5) The Office of the Chief Information Officer may promulgate necessary administrative regulations in accordance with KRS 13A and suggest necessary legislative actions for the furtherance of duties of the office.

Section 5. KRS 154.10-050 is amended to read as follows:

(1) The secretary shall be the chief executive officer of the Cabinet for Economic Development and shall possess the professional qualifications appropriate for that office as determined by the board.

(2) The board shall set the salary of the secretary, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(3) The secretary shall be responsible for the day-to-day operations of the cabinet and shall report and submit on an annual basis implementation plans to the board as provided in KRS 154.10-060; submit the strategic plan for economic development to the board in accordance with the provisions of KRS 154.10-120 and 154.10-125; submit program evaluation reports to the board in accordance with the provisions of KRS 154.10-140; carry out policy and program directives of the board; coordinate programs of the cabinet with all other agencies of state government having economic development responsibilities; hire all other personnel of the cabinet consistent with state law; and carry out all other duties and responsibilities assigned by state law.

(4) The secretary shall prepare and submit the proposed budget of the cabinet to the chairman who shall present it to the board for final approval. Upon approval, the board shall submit the proposed budget to the Governor's Office for Policy and Management.

(5) The secretary shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

(6) The secretary may hire one (1) individual to be designated as the executive administrator. This position shall be exempt from the salary limitations as set forth in Section 3 of this Act.

Section 6. KRS 154.12-223 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the Department of Community Development, which shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. ***The commissioner's salary shall be exempt from the salary limitations as set forth in Section 3 of this Act.*** The department shall work with each Kentucky county in:

   (a) Determining a long-range plan for economic development which best meets the individual county's needs; and

   (b) Developing cooperative interaction with existing industries and small and minority businesses and assisting export development.

(2) The Department of Community Development shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

   (a) The Division of Business and Entrepreneurship Development, which shall be responsible for procurement assistance, business information clearinghouse services, and business and technology functions of the cabinet, including, without being limited to:

      1. Providing comprehensive information on all state business licenses and requirements;

      2. Developing and administering a master application and licensure program for grocery stores;

      3. Coordinating and monitoring the various activities being carried out by state agencies that relate to adapting advanced technologies to the workplace; and

      4. Reviewing and analyzing the possibility of establishing research and technology centers in the Commonwealth;

   (b) The Small and Minority Business Division, which shall be responsible for the cabinet's functions relating to small and minority business enterprise, as provided in KRS 154.12-215. The Small Business Advisory Council established by KRS 154.12-218 shall advise the division;

   (c) The Western Kentucky Economic Development Division;

   (d) The Eastern Kentucky Economic Development Division;

(e) The Central Kentucky Economic Development Division; and

(f) The International Trade Division, which shall promote the development of international markets for Kentucky goods, products, and services for the purpose of identifying and analyzing national and international market developments and opportunities, and gathering and disseminating vital information to Kentucky manufacturers, service providers, and other industries regarding international trade opportunities.

(3) The following programs and commission shall be attached to the Department of Community Development:

(a) The Kentucky port and river development program created by KRS 65.510 to 65.530, KRS 139.483, and KRS 154.80-100 to 154.80-130;

(b) The Waterway Marina Development Program established by KRS 154.80-310; and

(c) The Kentucky Investment Capital Network established by KRS 154.12-2333.

Section 7. KRS 154.12-225 is amended to read as follows:

(1) There is created within the Cabinet for Economic Development the Department of Job Development. The department shall be headed by a commissioner appointed by the Governor pursuant to KRS 12.040. ***The commissioner's salary shall be exempt from the salary limitations as set forth in Section 3 of this Act.*** The department shall coordinate the recruitment of industries that will enhance the overall viability of Kentucky's economy.

(2) The Department of Job Development shall include the following divisions, each of which shall be headed by a director appointed by the secretary pursuant to KRS 12.050:

(a) The Industrial Development Division; and

(b) The Site Evaluation Division.

(3) Kentucky's representative development offices located in other states and countries shall be assigned to the Department of Job Development.

Section 8. KRS 164.013 is amended to read as follows:

(1) The Council on Postsecondary Education shall set the qualifications for the position of president of the council. Except for the first president appointed under subsection (2) of this section, the council shall employ a search firm and conduct a nationwide search for candidates. The search firm employed by the council shall consider, interview, and propose three (3) or more candidates for the position of president. The council may seek additional names from the search firm or from other sources.

(2) In the selection of candidates for the first president of the Council on Postsecondary Education, the Strategic Committee on Postsecondary Education shall serve as a search committee, employing a search firm for assistance. The committee shall recommend three (3) candidates to be considered by the council and shall repeat this process until it finds a satisfactory person to appoint as the first president of the council.

(3) The president shall possess an excellent academic and administrative background, have strong communication skills, have significant experience and an established reputation as a professional in the field of postsecondary education, and shall not express, demonstrate, or appear to have an institutional or regional bias in his or her actions.

(4) The president shall be the primary advocate for postsecondary education and advisor to the Governor and the General Assembly on matters of postsecondary education in Kentucky. As the primary advocate for postsecondary education, the president shall work closely with the committee and the elected leadership of the Commonwealth to ensure that they are fully informed about postsecondary education issues and that the council fully understands the goals for postsecondary education that the General Assembly has established in KRS 164.003(2).

(5) The president may design and develop for review by the council new statewide initiatives in accordance with the strategic agenda.

(6) The president shall be compensated on a basis in excess of the base salary of any president of a Kentucky public university. The council shall set the salary of the president, which shall be exempt from state employee salary limitations as set forth in KRS 64.640.

(7) The president shall be accorded a contract to serve for a term not to exceed five (5) years, which is renewable at the pleasure of the council.

(8) The president shall determine the staffing positions and organizational structure necessary to carry out the responsibilities of the council and may employ staff. ***The president may designate no more than two (2) positions for vice presidents. The vice presidents shall be exempt from the salary limitations set forth in Section 3 of this Act.*** All personnel positions of the Council on Higher Education, as of May 30, 1997, with the exception of the position of executive director, shall be transferred to the Council on Postsecondary Education. All personnel shall be transferred at the same salary and benefit levels. Notwithstanding the provisions of KRS 11A.040, any person employed by the Council on Higher Education prior to May 30, 1997, may accept immediate employment with any governmental entity or any postsecondary education organization or institution in the Commonwealth and may carry out the employment duties assigned by that entity, organization, or institution.

(9) The president shall be responsible for the day-to-day operations of the council and shall report and submit annual reports on the strategic implementation plan of the strategic agenda, carry out policy and program directives of the council, prepare and submit to the council for its approval the proposed budget of the council, and perform all other duties and responsibilities assigned by state law.

(10) With approval of the council, the president may enter into agreements with any state agency or political subdivision of the state, any state postsecondary education institution, or any other person or entity to enlist staff assistance to implement the duties and responsibilities under KRS 164.020.

(11) The president shall be reimbursed for all actual and necessary expenses incurred in the performance of all assigned duties and responsibilities.

Section 9. KRS 164.800 is amended to read as follows:

(1) The Commonwealth Virtual University shall be the academic programs made available to the citizens of the Commonwealth through the use of modern methods of communications and information dissemination as determined by the Council on Postsecondary Education after consideration of the recommendations of the Distance Learning Advisory Committee and the needs expressed by the regional advisory groups. ***The Council on Postsecondary Education shall employ a president to oversee the Commonwealth Virtual University. The council shall also set the salary of the president, which shall be exempt from the salary limitations set forth in Section 3 of this Act.***

(2) The council shall establish a Distance Learning Advisory Committee to advise the council on matters relating to the Commonwealth Virtual University. The members of the advisory committee shall include the presidents of each of the nine (9) state postsecondary education institutions, the executive director of the Kentucky Educational Television Network, a representative of the Association of Independent Kentucky Colleges and Universities, and other representatives as the council deems appropriate. The committee shall elect its chair and other officers as it deems necessary.

(3) The council, after receiving the recommendations of the Distance Learning Advisory Committee, shall establish policies to control and promote the use of distance learning systems to be used by the Commonwealth Virtual University to increase the availability of all postsecondary education programs throughout the state in the most efficient manner. The regional universities shall be the primary developers and deliverers of baccalaureate and master's degree programs to be delivered by the Commonwealth Virtual University; however, this does not preclude the University of Kentucky, the University of Louisville, or independent colleges from offering baccalaureate and master's degree programs or other course offerings, and community colleges and technical institutions from offering associate and technical degree programs or other courses through the Commonwealth Virtual University.

(4) The council shall determine the allocation of tuition, course offerings, source of courses, technology to be used, and other matters relating to the use of distance learning to promote education through the Commonwealth Virtual University.

Section 10. If the General Assembly during this 2000 Regular Session confirms the reorganization contained in Resolution 99-1 of the Kentucky Economic Development Partnership, dated April 1, 1999, references in Sections 2 and 7 of this Act to the Department of Job Development in the Cabinet for Economic Development shall be changed to the Department for Business Development in the codification of this Act.

HB 814, AN ACT relating to school curriculum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) A school council, under KRS 160.345, or if none exists, the school, may adopt a course of study that includes an elective course in history, civilization, ethics, comparative religion, literature, or other subject area that uses religious or scriptural texts, including the Bible, as instructional material. As an element of the course curriculum, the Ten Commandments, and other religious, literary, or historical documents may be posted, if the posting is appropriate to the overall educational purpose of the course.

(2) The curriculum and instructional practice of a course using religious or scriptural texts as instructional materials shall:

- ***(a) Incorporate religious or scriptural texts in a manner that is academic, balanced, and objective, not devotional; and***
- ***(b) Not favor or disfavor religion, or any particular religious belief.***

SJR 57, A JOINT RESOLUTION requesting the Kentucky Board of Education and the Department of Education to address the suppression and censorship of American history regarding Judeo-Christianity's influence on Colonial America and on the development of American law and civil government by encouraging teachers and school administrators to implement KRS 158.195 and post and teach from historic displays of original documents which reflect this history and which may also include the

Ten Commandments as the rule of colonial courts and the precedent legal code upon which the civil government and laws of the Commonwealth and the Republic were founded.

WHEREAS, the framers of Kentucky's Constitution acknowledged Almighty God to be the source of the Commonwealth's public and private liberties in the following words:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution;" and

WHEREAS, the Kentucky General Assembly has as recently as 1992 determined that there is valid educational purpose in teaching Kentucky and American history from original sources and that this educational goal for teaching history will be advanced by displaying in classrooms of the Commonwealth documents such as the Mayflower Compact, the Preamble to the Kentucky Constitution, President Lincoln's National Day of Prayer Proclamation of March 30, 1863, President Franklin D. Roosevelt's Fourth Inaugural Address of January 20, 1945, Senator John F. Kennedy's Address to the Greater Houston Ministerial Association on September 12, 1960, President Reagan's Proclamation of 1983 as the Year of the Bible, and Congressman Philip M. Crane's remarks in the Congressional Record of February 2, 1983, which include the Ten Commandments as the precedent legal code for American law and government; and

WHEREAS, in 1992, the Kentucky General Assembly recognized in the enactment of KRS 158.195 that there is nothing in the Kentucky or United States Constitution, including the First Amendment of the United States Constitution, which requires or permits the rewriting of American or Kentucky history or the suppression or censorship of those histories for any reason, particularly because of any religious references in historic documents; and

WHEREAS, Stone v. Graham, 449 U.S. 39 (1980), is the Kentucky case that ultimately held KRS 158.178 unconstitutional and caused some to take the Ten Commandments off schoolhouse walls across the country; and

WHEREAS, the Supreme Court held in Stone v. Graham that the schools could not be compelled by the state to display the Ten Commandments unless the posting was part of an historical presentation; and

WHEREAS, the Ten Commandments could be displayed in public schools because Stone v. Graham specifically recognized the constitutionality of teaching history without censorship or revision or both by allowing that, ". . . the Ten Commandments are integrated into the school curriculum to be used as part of an appropriate study of history and civilization and ethics . . . was permissible;" and

WHEREAS, it became apparent that KRS 158.195 had not begun to be implemented or made known to public school teachers of the Commonwealth since its adoption in 1992; and

WHEREAS, it is disturbing that after 1965, when the first major federal public education funds came to Kentucky under the Johnson Administration's Great Society programs, some teachers, librarians, and public school administrators were led to believe that the use of historic documents with religious content violated federal guidelines, and consequently, many original historic documents gradually fell into disuse, as indicated in Catherine Millard's "The Rewriting of America's History"; and

WHEREAS, the General Assembly reaffirms its statement in KRS 158.195 that "[t]here shall be no content-based censorship of American history or heritage in the Commonwealth based on religious references in these writings, documents, and records; and

WHEREAS, some teachers have acknowledged that they were intimidated and even fearful after 1965 about the use in the classroom of original historic documents that had Judeo-Christian content; and

WHEREAS, the General Assembly encourages the widest possible dissemination and display in the Commonwealth of original historic documents such as those mentioned in KRS 158.195;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly requests the Kentucky Board of Education and the Department of Education to address the suppression and censorship of American history regarding Judeo-Christianity's influence on Colonial America and on the development of American law and civil government by encouraging teachers and school administrators to implement KRS 158.195 and post and teach from historic displays of original documents that reflect this history and that may also include the Ten Commandments as the rule of colonial courts and the precedent legal code upon which the civil government and laws of the Commonwealth and the Republic were founded.

Section 2. The Department of Education shall make wide distribution of KRS 158.195 and this Resolution by electronically sending a copy to all public schools for distribution to all teachers and school administrators across the Commonwealth to stem any climate of fear created by those who would discourage teachers from teaching about Judeo-Christianity's historic influence on the founding of America and the development of its law and government, because this climate of fear has prevented some teachers from using original source documents to teach students the true origins and nature of the Republic.

Section 3. In the spirit of KRS 158.195, which was meant to condemn and stop any rewriting of American history by suppressing or censoring those historic documents that acknowledge God and the influence of Judeo-Christianity on the nation, copies of those historical documents and other original source documents, including the Ten Commandments as the precedent legal code that has significantly influenced the development of the civil and criminal statutes of the Commonwealth and the nation, may be read, taught from, and prominently displayed in the entry hall or foyer of Kentucky public schools as well as classrooms. Each historic display shall be accompanied by clearly legible copies of this Resolution and of KRS 158.195; and the cost of posting and maintaining the displays may be defrayed, in whole or part, by voluntary private contributions.

Section 4. The Department of Education shall report annually upon its progress in implementing this Resolution and KRS 158.195 to the Legislative Research Commission by making a report each year beginning six months from the date this Resolution becomes effective. The report shall include the number of schools in each district and county which have posted this Resolution, KRS 158.195, and the historic displays described in this Resolution.

The House Committee Substitute No. 1 to **SJR 57** is as follows:

SJR 57, A JOINT RESOLUTION requesting the Kentucky Board of Education and the Department of Education to address the suppression and censorship of American history regarding Judeo-Christianity's influence on Colonial America and on the development of American law and civil government by encouraging teachers and school administrators to implement KRS 158.195 and post and teach from historic displays of original documents which reflect this history and which may also include the Ten Commandments as the rule of colonial courts and the precedent legal code upon which the civil government and laws of the Commonwealth and the Republic were founded.

WHEREAS, the Framers of Kentucky's Constitution acknowledged Almighty God to be the source of the Commonwealth's public and private liberties in the following words:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution"; and

WHEREAS, in 1992, the Kentucky General Assembly recognized in the enactment of KRS 158.195 that there is nothing in the Kentucky Constitution or the First Amendment to the United States Constitution which requires the rewriting of American or Kentucky history or the suppression or censorship of those histories for any reason, particularly because of any religious references in historic documents; and

WHEREAS, many of the Ten Commandments have been codified in Kentucky's civil and criminal laws and similarly in the legal codes of the other forty-nine states; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that "[t]he judicial laws of God, as they were delivered by Moses be a rule to all the courts in this jurisdiction"; and

WHEREAS, William Blackstone, Esq., eminent British jurist, Professor of Law, and legal scholar whose writings shaped the thoughts of the men who wrote the Declaration of Independence and the other founding documents of the Republic which became the authority for much of our original American system of jurisprudence, stated in his "Commentaries on the Laws of England" published in 1765: "[u]pon these two foundations, the law of nature and the law of revelation [the Bible] depend all human laws"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution," emphasized the Biblical presuppositions of that document:

> "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to require the removal of the Bible and the Ten Commandments from public school classrooms:

> "Should not the Bible regain the place it once held as a schoolbook? Its morals are pure, its examples are captivating and noble. . . . In no Book is there so good English, so pure and so elegant, and by teaching all the same they will speak alike, and the Bible will justly remain the standard of language as well as of faith"; and

WHEREAS, in an article published in "Palladium" magazine on September 20, 1789, Congressman Ames further amplified his concern that American education should include familiarity with the Bible:

> "We are spending less time in the classroom on the Bible which should be the principal text in our schools . . . The Bible states these great moral lessons better than any other manmade book"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, President George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared:

> "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . . Let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and

experience both forbid us to expect that National morality can prevail in exclusion of religious principle"; and

WHEREAS, Noah Webster, the author of dictionaries and America's first speller, grammar, and reader (the famed 1783 "Blue-Backed Speller"), articulated the mindset of the Framers who presupposed a Biblical basis for law:

> "The moral principles and precepts contained in the Scriptures ought to form the basis for all our civil constitutions and laws. All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery and war proceed from their despising or neglecting the precepts contained in the Bible"; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society, on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated:

> "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of that Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Saviour, Jesus Christ"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision which has never been overruled, cited sixty-six authorities which show the Bible's singular influence on America:

> "There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that: 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear recognition of the same truth
>
> . . . this is a Christian nation' "; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English Language, stated:

> "Up to the time of the translation of the Bible into English, it was a book for long ages withheld from the perusal of the peoples of other languages and other tongues, and not a little of the history of liberty lies in the circumstance that the moving sentences of this book were made familiar to the ears and understanding of those peoples who have led mankind in exhibiting the forms of government and the impulses of reform which have made for freedom and for self-government among mankind.
>
> "For this is a book which reveals men unto themselves, not as creatures in bondage, but as men under human authority, not as those bidden to take counsel and command of any human source. It reveals every man to himself as a distinct moral agent, responsible not to men, not even to those men whom he has put over him in authority, but responsible through his own conscience to his Lord and Maker. Whenever a man sees this vision he stands up a free man, whatever may be the government under which he lives, if he sees beyond the circumstances of his own life . . . Moreover, the Bible does what is so invaluable in human life -- it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters -- that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude.
>
> "How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character
>
> . . . Do you wonder, therefore, that when I was asked what my theme this evening would be, I said it would be 'The Bible and Progress'? We do not judge progress by material standards. America is not ahead of the other nations of the world because she is rich. Nothing makes America great except her thoughts, except her ideals, except her acceptance of those standards of judgment which are written large upon these pages of revelation. America has all along claimed the distinction of setting this example to the civilized world -- that men were to think of one another, that governments were to be set up for the service of the people, that men were to be judged by these moral standards which pay no regard to rank or birth or conditions, but which assess every man according to his single and individual value. This is the meaning of this charter of the human soul. This is the standard by which men and nations have more and more come to be judged. And so the form has consisted in nothing more nor less than this - in trying to conform to actual conditions, in trying to square actual laws with the right judgments of human conduct and more than liberty.
>
> "That is the reason that the Bible has stood at the back of progress. That is the reason that reform has come not from the top but from the bottom. If you are ever tempted to let a government reform itself, I ask you to look back in the pages of history and find me a government that reformed itself"; and

WHEREAS, President Woodrow Wilson's letter to the soldiers and sailors of the United States during World War I, recorded in the Congressional Record, advised them:

> "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and, most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, in his March 9, 1937, Fireside Chat on Reorganization of the Judiciary, President Franklin D. Roosevelt stated:

> "I hope that you have re-read the Constitution of the United States in these past few weeks. Like the Bible, it ought to be read again and again"; and

WHEREAS, before his assassination on November 22, 1963, President John F. Kennedy prepared a major address on the status of American strength and security, choosing his last words from the Bible to reveal the source of America's true security: "Except the Lord keep the city, the watchman waketh but in vain"; and

WHEREAS, in his book, "Sources of Power," President Jimmy Carter acknowledged the importance of the Mosaic law as a foundation:

> "As we face changes and challenges, we need to hold on to the things that don't change, the foundations on which we can build our lives despite the uncertainty and danger of the future. God's law is the greatest of these foundations"; and

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the governmental power of the state are derived; and

WHEREAS, in his November, 1976 interview with Robert Scheer, President Jimmy Carter stated:

> "I think the laws are on the books quite often because of their relationship to the Bible. Early in the nation's development, the Judeo-Christian moral standards were accepted as a basis for civil law"; and

WHEREAS, in his February 22, 1990 proclamation designating 1990 as The International Year of Bible Reading, President George Bush declared:

> "The Bible has had a critical impact upon the development of Western civilization. Western literature, art, and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man -- one affirming the dignity and worth of the human person, made in the image of our Creator -- that inspired the principles upon which the United States is founded. President Jackson called the Bible "the rock on which our Republic rests" because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope, and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historic speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared, 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another"; and

WHEREAS, in his November 1, 1998 remarks at the New Psalmist Baptist Church in Baltimore, Maryland, President Bill Clinton told the African-American congregation:

> "What does the Bible tell us? One thing the Bible tells us hundreds of times -- hundreds and hundreds of times about politics -- the only thing it tells us hundreds and hundreds of times is to care for the poor, the weak, the needy. In Matthew, Jesus says, 'Verily I say unto you even as you have done this unto the least of these my brethren, you have also done it unto me' ";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education, with assistance as necessary by the Legislative Research Commission, shall electronically transmit KRS 158.195 and this resolution to all public school teachers in the Commonwealth setting forth the legal guidelines established by the General Assembly in this resolution governing elected officials and public school teachers electing to post historic displays which include a depiction of the Ten Commandments.

Section 2. Documents depicting the Ten Commandments may be posted in classrooms by any public school teacher and on other public property, when incorporated into an historical display along with other historic documents as described in KRS 158.195 which may also trace the influence of the Bible on America's Founding Fathers, Presidents, laws, and institutions of government. Each historic document displayed inside a public building or school shall be displayed in a sixteen (16) inch by twenty (20) inch frame, except that the frame containing this resolution and KRS 158.195 may be larger. The purpose of the display shall not be to advance religion, but to advance the important secular purpose of illustrating how the Bible and the Ten Commandments have influenced the faith, morals, and character of American leaders who, in turn, have shaped American law, public policy, and institutions. For that reason, the General Assembly expresses no preference as to which version of the Ten Commandments is displayed or whether the display is in English, Hebrew, or a foreign language being taught in the classroom. To advance the secular purpose of making citizens of the Commonwealth more knowledgeable concerning the founding of America, the intent of the nation's Founders, and the formative influence of the Bible and the Ten Commandments on American leaders, institutions, and law, a copy of this resolution shall be made a prominent part of any historic display on public property which includes any depiction of the Ten Commandments.

Section 3. The General Assembly directs the Kentucky Department of Education to institute a "Read to Lead" program, the goals of which shall be to familiarize students with writings and speeches of America's Founders, Framers, and Presidents which show how important the Bible, the Ten Commandments, religious faith, and strong moral character were to those American leaders. The Kentucky Department of Education shall make these historic documents and materials easily accessible to public school teachers on its web site.

Section 4. No fiscal court, city council, school board, or site-based council shall post any historical display set forth in KRS 158.195 which incorporates a depiction of the Ten Commandments until that governing body first sets forth by resolution or policy its secular purpose for erecting the display. This purpose shall not advance religion.

Section 5. Each historic display shall be accompanied by clearly legible copies of this resolution and of KRS 158.195; and the cost of posting and maintaining the displays shall be paid for by voluntary private contributions.

Section 6. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Department for Local Government for distribution by the department, in the manner it deems most efficient, to all elected officials of each city and county of the Commonwealth.

Section 7. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Secretary of State for distribution by the Secretary of State, in the manner he deems most efficient, to the statewide elected officials of the Commonwealth.

The House Committee Amendment No. 1 Title to **SJR 57** is as follows:

By amending the title to read as follows:

A JOINT RESOLUTION relating to the posting and study of historic documents which include a depiction of the Ten Commandments.

The Committee on Natural Resources and Environment reported **HB 792, HB 805,** with Committee Substitute attached thereto, **HB 806,** with Committee Substitute attached thereto, and **HCR 108** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 792, AN ACT relating to coal mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 350.445 is amended to read as follows:

The following performance standards shall be applicable to steep-slope strip mining and shall be in addition to those general performance standards required by KRS 350.405 to 350.435; provided, however, that the provisions of this section shall not apply to those situations in which a permittee or operator is mining on flat or gently rolling terrain, on which an occasional steep slope is encountered through which the mining operation is to proceed, leaving a plain or predominantly flat area, or where a permittee or operator is in compliance with the provisions of KRS 350.450(2):

(1) The permittee or operator shall insure that when performing strip mining on steep slopes, debris, abandoned or disabled equipment, spoil material, or waste mineral matter not be placed on the downslope below the bench or mining cut; provided, that spoil material in excess of that required for the reconstruction of the approximate original contour under the provisions of KRS 350.410 or 350.445(2) shall be permanently stored pursuant to KRS 350.440.

(2) The permittee or operator shall complete backfilling with spoil material and shall be required to cover completely the highwall and return the site to the approximate original contour, which material will maintain stability following mining and reclamation.

(3) The permittee or operator may not disturb land above the top of the highwall unless the cabinet finds that the disturbance will facilitate compliance with the environmental protection standards of this subsection; provided, however, that the land disturbed above the highwall shall be limited to that amount necessary to facilitate compliance. ***The construction of a permanent road above the top of a highwall in conjunction with the return of maximum overburden to the bench shall be deemed to facilitate compliance with the environmental protection standards of this chapter.***

(4) For the purposes of this section, the term "steep slope" is any slope above twenty (20) degrees or such lesser slope as may be defined by the cabinet, by regulation, after consideration of soil, climate, and other characteristics of the region.

HB 805, AN ACT relating to the development and use of natural resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

(a) 1. Is an electric power company as defined in KRS Chapter 136; or

2. Is an entity that owns or operates a coal-fired electric generation plant;

(b) Remits tax to the Commonwealth under KRS 136.070, KRS 136.120, KRS 141.020, or KRS 141.040; and

(c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased during the base year.

(4) The base year amount shall be equal to:

(a) For entities existing on the effective date of this Act that meet the eligibility requirements imposed under subsection (1) of this section, the tons of coal purchased during the twelve calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after the effective date of this Act that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero.

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Revenue Cabinet. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The Revenue Cabinet shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Revenue Cabinet under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) KRS 141.040;

(b) KRS 141.020;

(c) KRS 136.070; and

(d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Revenue Cabinet shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsection (6) and subsection (7) of this section.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

  (a) The individual credits permitted by KRS 141.020(3);

  (b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

  (c) The health insurance credit permitted by KRS 141.062;

  (d) The tax paid to other states credit permitted by KRS 141.070;

  (e) The credit for hiring the unemployed permitted by KRS 141.065;

  (f) The recycling or composting equipment credit permitted by KRS 141.390;

  (g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

  (h) The low income credit permitted by KRS 141.066;~~[and]~~

  (i) The household and dependent care credit permitted by KRS 141.067***; and***

  (j) The coal incentive credit permitted under Section 1 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

  (a) The individual withholding tax credit permitted by KRS 141.350; and

  (b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

  (a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

  (b) The health insurance credit permitted by KRS 141.062;

  (c) The unemployment credit permitted by KRS 141.065;

  (d) The recycling or composting equipment credit permitted by KRS 141.390;

  (e) The coal conversion credit permitted by KRS 141.041;

  (f) The enterprise zone credit permitted by KRS 154.45-090;~~[and]~~

  (g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263***; and***

  (h) The coal incentive credit permitted under Section 1 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The Coal Incentive Credit authorized under Section 1 of this Act shall be allowed for ten (10) consecutive years beginning on March 15, 2001. Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

The Committee Substitute to **HB 805** is as follows:

HB 805, AN ACT relating to the development and use of natural resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

(1) There shall be allowed a nonrefundable credit against taxes imposed by the Commonwealth on any taxpayer that:

  (a) 1. Is an electric power company as defined in KRS Chapter 136; or

    2. Is an entity that owns or operates a coal-fired electric generation plant;

  (b) Remits tax to the Commonwealth under KRS 136.070, KRS 136.120, KRS 141.020, or KRS 141.040; and

  (c) Purchases coal subject to the tax imposed under KRS 143.020 that is used by the taxpayer, or by a parent company if the taxpayer is a wholly owned subsidiary, for the purpose of generating electricity.

(2) The amount of the allowable credit shall be two dollars ($2) per each incentive ton of coal purchased that is subject to tax under KRS 143.020 and that is used to generate electric power.

(3) Incentive tons are calculated as the tons of coal purchased in the current year for which coal severance tax was paid minus the tons of coal purchased and used during the base year.

(4) The base year amount shall be equal to:

  (a) For entities existing on the effective date of this Act that meet the eligibility requirements imposed under

subsection (1) of this section, the tons of coal purchased and used to generate electricity during the twelve (12) calendar months ending in December 31, 1999, that were subject to the tax imposed by KRS 143.020; or

(b) For entities that come into existence after the effective date of this Act that meet the eligibility requirements imposed under subsection (1) of this section, the base year amount shall be equal to zero (0).

(5) On or before March 15 of each year, a company eligible for the credit provided under subsection (2) of this section shall file a coal incentive credit claim on forms prescribed by the Revenue Cabinet. At the time of filing for the credit, the taxpayer shall submit verification of the tons of coal purchased in the base year and the tons of coal purchased in the year for which the credit is being claimed. The Revenue Cabinet shall determine the amount of the eligible credit and issue a credit certificate to the taxpayer.

(6) The taxpayer shall be eligible to apply, subject to the conditions imposed under subsection (7) of this section, the amount identified on the credit certificate issued by the Revenue Cabinet under subsection (5) of this section, against the taxpayer's liability for the taxes, in consecutive order as follows:

(a) KRS 141.040;

(b) KRS 141.020;

(c) KRS 136.070; and

(d) KRS 136.120.

(7) The credit shall meet the entirety of the taxpayer's liability under the first tax listed in consecutive order under subsection (6) of this section before applying the remaining credit to the next tax listed in consecutive order. The taxpayer's total liability under each preceding tax must be fully met before the remaining credit can be applied to the subsequent tax listed in consecutive order.

(8) The taxpayer shall maintain records required in subsection (5) of this section for a period of five (5) years.

(9) Acceptable verification of coal purchased during the base year shall include invoices that indicate the tons of coal purchased from a Kentucky supplier of coal and proof of remittance for that purchase.

(10) The Revenue Cabinet shall develop the forms required under subsection (5) of this section, specifying the procedure for claiming the credit, and applying the credit against the taxpayer's liability in the order provided under subsection (6) and subsection (7) of this section.

Section 2. KRS 141.0205 is amended to read as follows:

If a taxpayer is entitled to more than one (1) of the tax credits allowed against the tax imposed by KRS 141.020 or 141.040, the priority of application and use of the credits shall be determined as follows:

(1) The nonrefundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual credits permitted by KRS 141.020(3);

(b) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(c) The health insurance credit permitted by KRS 141.062;

(d) The tax paid to other states credit permitted by KRS 141.070;

(e) The credit for hiring the unemployed permitted by KRS 141.065;

(f) The recycling or composting equipment credit permitted by KRS 141.390;

(g) The tax credit for cash contributions in investment funds permitted by KRS 154.20-263;

(h) The low income credit permitted by KRS 141.066;[~~ and~~]

(i) The household and dependent care credit permitted by KRS 141.067*; and*

(j) The coal incentive credit permitted under Section 1 of this Act.

(2) After the application of the nonrefundable credits in subsection (1) of this section, the refundable credits against the tax imposed by KRS 141.020 shall be taken in the following order:

(a) The individual withholding tax credit permitted by KRS 141.350; and

(b) The individual estimated tax payment credit permitted by KRS 141.305.

(3) The nonrefundable credits against the tax imposed by KRS 141.040 shall be taken in the following order:

(a) The economic development credits computed under KRS 141.347, 141.400, 141.403, 141.407, and 154.12-2088;

(b) The health insurance credit permitted by KRS 141.062;

(c) The unemployment credit permitted by KRS 141.065;

(d) The recycling or composting equipment credit permitted by KRS 141.390;

(e) The coal conversion credit permitted by KRS 141.041;

(f) The enterprise zone credit permitted by KRS 154.45-090;[~~ and~~]

(g) The tax credit for cash contributions to investment funds permitted by KRS 154.20-263***; and***

(h) The coal incentive credit permitted under Section 1 of this Act.

(4) After the application of the nonrefundable credits in subsection (3) of this section, the refundable corporation estimated tax payment credit permitted by KRS 141.044 shall be allowed as a credit against the tax imposed by KRS 141.040.

SECTION 3. A NEW SECTION OF KRS CHAPTER 131 IS CREATED TO READ AS FOLLOWS:

The Coal Incentive Credit authorized under Section 1 of this Act shall be allowed for ten (10) consecutive years beginning on March 15, 2001. Continuation of the credit authorized under this section shall require reauthorization by the General Assembly.

HB 806, AN ACT relating to the development and use of natural resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more claims of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products.

(3) "Electric generation" means the generation of electricity for resale by means of coal combustion including the combustion of gas derived from coal.

(4)[~~(3)~~]"Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080.

(5)[~~(4)~~]"Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(6)[~~(5)~~]"Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080.

(7)[~~(6)~~]"Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010.

(8)[~~(7)~~]"Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(9)[~~(8)~~]"Commonwealth" means the Commonwealth of Kentucky.

(10)[~~(9)~~] (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved ***manufacturing or agribusiness*** company, or its affiliate;

2. The present ownership of real estate in a qualified county by the approved ***manufacturing or agribusiness*** company or its affiliate;

3. The acquisition or present ownership of improvements or facilities, as described in paragraph ***(b)***[~~(6)~~] of this subsection, on land which is possessed or is to be possessed by the approved ***manufacturing or agribusiness*** company pursuant to a ground lease having a term of sixty (60) years or more; ***and***

4. The new construction of an electric generation facility.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes***, electric generation,*** or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080.

(11)[~~(10)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing***, electric generation,*** or in agribusiness.

(12)[~~(11)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter.

(13)[~~(12)~~] "Financing agreement" means any agreement entered into, pursuant to KRS 154.22-010 to 154.22-080, on behalf of the authority or other lenders, or both, and an approved company with respect to an economic development project.

(14)[~~(13)~~] "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060.

(15)[~~(14)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals.

(16)[~~(15)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter.

(17)[~~(16)~~] "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080.

(18)[~~(17)~~] "Revenues" shall not be considered state funds.

(19)[~~(18)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 2. KRS 154.22-020 is amended to read as follows:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth, and particularly those residing in qualified counties, depends in large measure upon the development and growth of industry in the Commonwealth.

(2) The General Assembly hereby finds and declares further that it is in the best interest of the Commonwealth to induce the location of manufacturing facilities***, electric generation,*** and agribusiness operations within the qualified counties of the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs within the qualified counties that but for the inducements to be offered by the authority to approved companies as herein provided would not exist and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth and qualified counties.

(3) The General Assembly hereby finds and declares further that the authority granted by KRS 154.22-010 to 154.22-070 and the purposes to be accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of manufacturing facilities***, electric generation,*** and agribusiness operations within qualified counties is of paramount importance, mandating that the provisions of KRS 154.22-010 to 154.22-070 be liberally construed and applied in order to advance the public purposes.

Section 3. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. ***For economic development projects involving the new construction of electric generation facilities, the authority shall certify every coal producing county as a qualified county. A coal producing county shall mean a county***

in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time.

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing ***or electric generation*** facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

- (a) Rehabilitates a manufacturing ***or electric generation*** facility:
  1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
  2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces a manufacturing ***or electric generation*** facility existing in the Commonwealth:
  1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
  2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
- (c) Replaces an existing manufacturing ***or electric generation*** facility located in the same qualified county, and the existing manufacturing ***or electric generation*** facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing ***or electric generation*** facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 4. KRS 154.22-090 is amended to read as follows:

(1) If the authority gives its preliminary approval designating an eligible company and authorizing the undertaking of an economic development project prior to July 15, 1996, and the authority by final approval approves the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 1997, then the approved company shall not be subject to KRS 154.22-010***(10)***~~[(9)]~~(a)3., and 154.22-050(1)(d), (2)(a)2., and (4), and shall be subject to KRS 154.22-010***(10)***~~[(9)]~~ and 154.22-050(1)(d) and (2)(a)2. as in effect prior to July 15, 1996.

(2) KRS 154.22-070 only applies to those approved companies which enter into financing agreements with the authority after July 15, 1996.

Section 5. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Affiliate" means the following:

- (a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more claims of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(2) "Agreement" means an agreement entered into, pursuant to KRS 154.28-090, on behalf of the authority and an approved company with respect to an economic development project;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) ***"Electric generation" means the generation of electricity for resale by means of coal combustion including the***

combustion of gas derived from coal;

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6)[~~(5)~~]"Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7)[~~(6)~~]"Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8)[~~(7)~~]"Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9)[~~(8)~~]"Commonwealth" means the Commonwealth of Kentucky;

(10)[~~(9)~~] (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved ***manufacturing, electric generation, or agribusiness*** company or its affiliate;
2. The present ownership of real estate by the approved ***manufacturing, electric generation, or agribusiness*** company or its affiliate;[~~ or~~]
3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more***; or***
4. ***The new construction of an electric generation facility in a coal producing county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time.***

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(11)[~~(10)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing***, electric generation,*** or agribusiness operations;

(12)[~~(11)~~] "Inducement" means the assessment and the Kentucky income tax credit as set forth in KRS 154.28-090;

(13)[~~(12)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(14)[~~(13)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 6. KRS 154.28-015 is amended to read as follows:

The General Assembly hereby finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depends in large measure upon the development and growth of industry in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the location of agribusiness***, electric generation,*** or manufacturing facilities within the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs that would not exist if not for the inducements to be offered by the authority to approved companies, and by creating sources of tax revenues for the support of the public services provided by the Commonwealth, and that the authority prescribed by KRS 154.28-015 to 154.28-100, and the purposes to be accomplished under the provisions of KRS 154.28-015 to 154.28-100, are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of agribusiness***, electric generation,*** or manufacturing facilities is of paramount importance, mandating that the provisions of KRS 154.28-015 to 154.28-100 be liberally construed and applied in order to advance the public purposes.

Section 7. KRS 154.28-080 is amended to read as follows:

(1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.

(2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) No economic development project which will result in the replacement of a manufacturing***, electric generation,*** or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing***, electric generation,*** or agribusiness facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or

2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing ***or electric generation*** facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing ***or electric generation*** facility located in the same qualified county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing ***or electric generation*** facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing ***or electric generation*** facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

(5) With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial

inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

(6) After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.

(7) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 8. KRS 154.28-090 is amended to read as follows:

(1) The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:

1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or

2. Ten (10) years from the activation date of the original agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:

1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or

2. The aggregate assessment withheld by the approved company in each year.

(2) The agreement shall provide that:

(a) 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.

(b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.

(c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.042.

(d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.

(f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:

1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;
2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and
3. Pursue any other remedy at law to which it may appear entitled.

(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28-010***(10)***~~[(9)]~~ shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the authority the income tax liability, for the preceding fiscal year of the approved company for which the return was filed, of the approved company with respect to an economic development project receiving inducements under the provisions of KRS 154.28-010 to 154.28-090 and KRS 141.400, and the amount of any income tax credits taken pursuant to KRS 154.28-010 to 154.28-090 and KRS 141.400.

Section 9. KRS 154.28-120 is amended to read as follows:

(1) If the authority gives its preliminary approval designating an eligible company and authorizing the undertaking of an economic development project prior to July 15, 1996, and the authority by final approval approves the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement not later than June 30, 1997, then the approved company shall not be subject to KRS 154.28-010***(7)***~~[(6)]~~, 154.28-010***(10)***~~[(9)]~~ except to the extent of any reference to a capital lease, 154.28-010***(12)***~~[(11)]~~, 154.28-080(3), 154.28-090, and 154.28-110, and shall be subject to KRS 154.28-010***(10)***~~[(9)]~~, 154.28-080, and 154.28-090, as in effect prior to July 15, 1996.

(2) Subject to those approved companies described in subsection (1) of this section, KRS 154.28-110 shall only apply to those approved companies which enter into financing agreements with the authority after July 15, 1996.

Section 10. KRS 139.170 is amended to read as follows:

(1) "Machinery for new and expanded industry" means machinery used directly in the manufacturing or processing production process, which is incorporated for the first time into plant facilities established in this state, and which does not replace machinery in the plants, or that machinery purchased to replace existing machinery which will increase the consumption of recycled materials at a facility by not less than ten percent (10%). ***Machinery for new and expanded industry shall also include the manufacturing machinery and equipment to combust coal or any gas or liquid derived from coal for the purpose of generating electricity.*** The term "machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or vendor as a condition of sale or as a condition of warranty. The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas.

(2) For the purposes of this section, the term:

(a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment. "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools.

(b) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products.

Section 11. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

    (a) Operate farm machinery as defined in subsection (11) of this section;

    (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;

    (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;

    (d) Operate-on farm ratite facilities defined in subsection (24) of this section;

    (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or

    (f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials"

means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(27) Baling twine and baling wire for the baling of hay and straw;

(28) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, or aquatic organisms;

(29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~[and]~~

(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities***;***

(31) Limestone used to abate sulfur dioxide emissions when generating electricity; and

(32) Chemicals and industrial machinery used directly in the process of controlling carbon dioxide, carbon monoxide, sulfur dioxide, nitrous oxide, and particulate emissions when generating electricity. Industrial machinery means the same as defined in KRS 139.486 except that it shall not be restricted to only machinery that is manufactured in Kentucky.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The secretary of the Natural Resources and Environmental Protection Cabinet shall facilitate the permitting of coal-fired electric generation plants in the Commonwealth by developing procedures for one (1) stop shopping for environmental permits.

The Committee Substitute to **HB 806** is as follows:

HB 806, AN ACT relating to the development and use of natural resources.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.22-010 is amended to read as follows:

The following words and terms as used in KRS 154.22-010 to 154.22-080, unless the context clearly indicates a different meaning, shall have the following meanings:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual, and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or profits are owned or controlled, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more claims of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing the voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock

possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company more than fifty percent (50%) of the capital interest, or the interest in profits, of which is owned directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and
2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation; S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(2) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products.

(3) "Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal.

(4)[~~(3)~~]"Approved company" means any eligible company seeking to locate an economic development project in a qualified county, which eligible company is approved by the authority pursuant to KRS 154.22-010 to 154.22-080.

(5)[~~(4)~~]"Approved costs" means:

(a) Obligations incurred for labor and to contractors, subcontractors, builders, and materialmen in connection with the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(b) The cost of acquiring land or rights in land and any cost incidental thereto, including recording fees;

(c) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, installation, equipping, and rehabilitation of an economic development project which is not paid by the contractor or contractors or otherwise provided for;

(d) All costs of architectural and engineering services, including test borings, surveys, estimates, plans and specifications, preliminary investigations, and supervision of construction, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, installation, equipping, and rehabilitation of an economic development project;

(e) All costs which shall be required to be paid under the terms of any contract or contracts for the acquisition, construction, installation, equipping, and rehabilitation of an economic development project; and

(f) All other costs of a nature comparable to those described above.

(6)[~~(5)~~]"Assessment" means the job development assessment fee authorized by KRS 154.22-010 to 154.22-080.

(7)[~~(6)~~]"Authority" means the Kentucky Economic Development Finance Authority as created in KRS 154.20-010.

(8)[~~(7)~~]"Bonds" means the revenue bonds, notes, or other debt obligations of the authority authorized to be issued by the authority, eligible companies, or other state agency.

(9)[~~(8)~~]"Commonwealth" means the Commonwealth of Kentucky.

(10)[~~(9)~~] (a) "Economic development project" means and includes:

1. The acquisition of ownership in any real estate in a qualified county by the authority, the approved ***manufacturing or agribusiness*** company, or its affiliate;
2. The present ownership of real estate in a qualified county by the approved ***manufacturing or agribusiness*** company or its affiliate;
3. The acquisition or present ownership of improvements or facilities, as described in paragraph ***(b)***[~~(6)~~] of this subsection, on land which is possessed or is to be possessed by the approved ***manufacturing or agribusiness*** company pursuant to a ground lease having a term of sixty (60) years or more; ***and***
4. ***The new construction of an electric generation facility.***

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) or paragraph (b) of this subsection, the construction, installation, equipping, and rehabilitation of improvements, including fixtures and equipment, and facilities necessary or desirable for improvement of the real estate, including surveys; site tests and inspections; subsurface site work; excavation; removal of structures, roadways, cemeteries, and other surface obstructions; filling, grading, and provision of drainage, storm water retention, installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; off-site construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities on the real estate, for use and occupancy by the approved company or its affiliates for manufacturing purposes***, electric generation,*** or for agribusiness purposes. Pursuant to subparagraph 3. of paragraph (a) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.22-010 to 154.22-080.

(11)[~~(10)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, or any other entity engaged in manufacturing***, electric generation,*** or in agribusiness.

(12)[~~(11)~~] "Final approval" means the action taken by the authority authorizing the eligible company to receive inducements under this subchapter.

(13)[~~(12)~~] "Financing agreement" means any agreement entered into, pursuant to KRS 154.22-010 to 154.22-080, on behalf of the authority or other lenders, or both, and an approved company with respect to an economic development project.

(14)[~~(13)~~] "Inducements" means the assessment and the income tax credits allowed by KRS 154.22-060.

(15)[~~(14)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property and any activity related to it, together with the storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals.

(16)[~~(15)~~] "Preliminary approval" means the action taken by the authority conditioning final approval by the authority upon satisfaction by the eligible company of the requirements under this subchapter.

(17)[~~(16)~~] "Qualified county" means any county certified as such by the authority pursuant to KRS 154.22-010 to 154.22-080.

(18)[~~(17)~~] "Revenues" shall not be considered state funds.

(19)[~~(18)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 2. KRS 154.22-020 is amended to read as follows:

(1) The General Assembly hereby finds and declares that the general welfare and material well-being of citizens of the Commonwealth, and particularly those residing in qualified counties, depends in large measure upon the development and growth of industry in the Commonwealth.

(2) The General Assembly hereby finds and declares further that it is in the best interest of the Commonwealth to induce the location of manufacturing facilities***, electric generation,*** and agribusiness operations within the qualified counties of the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs within the qualified counties that but for the inducements to be offered by the authority to approved companies as herein provided would not exist and of creating new sources of tax revenues for the support of the public services provided by the Commonwealth and qualified counties.

(3) The General Assembly hereby finds and declares further that the authority granted by KRS 154.22-010 to 154.22-070 and the purposes to be accomplished hereby are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of manufacturing facilities***, electric generation,*** and agribusiness operations within qualified counties is of paramount importance, mandating that the provisions of KRS 154.22-010 to 154.22-070 be liberally construed and applied in order to advance the public purposes.

Section 3. KRS 154.22-040 is amended to read as follows:

(1) Each year the authority shall under its Rural Economic Development Assistance Program, on the basis of the final unemployment figures calculated by the Department for Employment Services within the Cabinet for Workforce Development, determine which counties have had a countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth in the most recent five (5) consecutive calendar years, or which have had an average countywide rate of unemployment exceeding the statewide unemployment rate of the Commonwealth by two hundred percent (200%) in the most recent twelve (12) consecutive months for which unemployment figures are available, and shall certify those counties as qualified counties. If the authority determines that a county which has previously been certified as a qualified county no longer has an unemployment rate that meets the criteria of this subsection, the authority shall decertify that county. The authority shall not finance any facilities in that county and an approved company shall not be eligible for the incentives offered by KRS 154.22-010 to 154.22-070 unless the financing agreements required herein are entered into by all parties prior to July 1 of the year following the calendar year in which the authority decertified that county. ***For economic development projects involving the new construction of electric generation facilities, the authority shall certify every coal producing county as a qualified county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time.***

(2) The authority shall establish the procedures and standards for the determination and approval of eligible companies and their economic development projects by the promulgation of administrative regulations in accordance with KRS Chapter 13A. The criteria for approval of eligible companies and economic development projects shall include but not be limited to the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final approval authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development project for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension. No economic development project which will result in the replacement of manufacturing ***or electric generation*** facilities existing in the state shall be approved by the authority; however, the authority may approve an economic development project that:

(a) Rehabilitates a manufacturing ***or electric generation*** facility:

1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;

(b) Replaces a manufacturing ***or electric generation*** facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or
2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing ***or electric generation*** facility located in the same qualified county, and the existing manufacturing ***or electric generation*** facility to be replaced cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing facility to be replaced. Any economic development project satisfying the requirements of this subsection shall only be eligible for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing ***or electric generation*** facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority which results in a lease abandonment or lease termination by the approved company without the consent of the lessor.

(4) With respect to each eligible company making an application to the authority for inducements, and with respect to the economic development project described in the application, the authority shall request materials and make inquiries of the applicant as necessary or appropriate. Upon review of the application and completion of initial inquiries, the authority

may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project. After preliminary approval and completion by the eligible company of its bond, loan, or other financing and review thereof by the authority, the authority may by final approval designate an eligible company to be an approved company.

Section 4. KRS 154.22-090 is amended to read as follows:

(1) If the authority gives its preliminary approval designating an eligible company and authorizing the undertaking of an economic development project prior to July 15, 1996, and the authority by final approval approves the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement no later than June 30, 1997, then the approved company shall not be subject to KRS 154.22-010***(10)***~~[(9)]~~(a)3., and 154.22-050(1)(d), (2)(a)2., and (4), and shall be subject to KRS 154.22-010***(10)***~~[(9)]~~ and 154.22-050(1)(d) and (2)(a)2. as in effect prior to July 15, 1996.

(2) KRS 154.22-070 only applies to those approved companies which enter into financing agreements with the authority after July 15, 1996.

Section 5. KRS 154.28-010 is amended to read as follows:

As used in KRS 154.28-010 to 154.28-100, unless the context clearly indicates otherwise:

(1) "Affiliate" means the following:

(a) Members of a family, including only brothers and sisters of the whole or half blood, spouse, ancestors, and lineal descendants of an individual;

(b) An individual and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for that individual;

(c) An individual, and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for that individual;

(d) Two (2) corporations which are members of the same controlled group, which includes and is limited to:

1. One (1) or more claims of corporations connected through stock ownership with a common parent corporation if:

a. Stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each of the corporations, except the common parent corporation, is owned by one (1) or more of the other corporations; and

b. The common parent corporation owns stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of at least one (1) of the other corporations, excluding, in computing such voting power or value, stock owned directly by the other corporations; or

2. Two (2) or more corporations if five (5) or fewer persons who are individuals, estates, or trusts own stock possessing more than fifty percent (50%) of the total combined voting power of all classes of stock entitled to vote or more than fifty percent (50%) of the total value of shares of all classes of stock of each corporation, taking into account the stock ownership of each person only to the extent the stock ownership is identical with respect to each corporation;

(e) A grantor and a fiduciary of any trust;

(f) A fiduciary of a trust and a fiduciary of another trust, if the same person is a grantor of both trusts;

(g) A fiduciary of a trust and a beneficiary of that trust;

(h) A fiduciary of a trust and a beneficiary of another trust, if the same person is a grantor of both trusts;

(i) A fiduciary of a trust and a corporation more than fifty percent (50%) in value of the outstanding stock of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(j) A fiduciary of a trust and a limited liability company of which more than fifty percent (50%) of the capital interest or the profits interest of which is owned, directly or indirectly, by or for the trust or by or for a person who is a grantor of the trust;

(k) A corporation and a partnership, including a registered limited liability partnership, if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest, or the profits interest, in the partnership, including a registered limited liability partnership;

(l) A corporation and a limited liability company if the same persons own:

1. More than fifty percent (50%) in value of the outstanding stock of the corporation; and

2. More than fifty percent (50%) of the capital interest or the profits in the limited liability company;

(m) A partnership, including a registered limited liability partnership, and a limited liability company if the same persons own:

1. More than fifty percent (50%) of the capital interest or profits in the partnership, including a registered limited liability partnership; and

2. More than fifty percent (50%) of the capital interest or profits in the limited liability company;

(n) An S corporation and another S corporation if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation, S corporation designation being the same as that designation under the Internal Revenue Code of 1986, as amended; or

(o) An S corporation and a C corporation, if the same persons own more than fifty percent (50%) in value of the outstanding stock of each corporation: S and C corporation designations being the same as those designations under the Internal Revenue Code of 1986, as amended.

(2) "Agreement" means an agreement entered into, pursuant to KRS 154.28-090, on behalf of the authority and an approved company with respect to an economic development project;

(3) "Agribusiness" means any activity involving the processing of raw agricultural products, including timber, or the providing of value-added functions with regard to raw agricultural products;

(4) ***"Electric generation" means the generation of electricity for resale by means of combusting at least fifty percent (50%) of the total fuel used to generate electricity from coal or from gas derived from coal;***

(5) "Approved company" means any eligible company, approved by the authority pursuant to KRS 154.28-080, requiring an economic development project;

(6)[~~(5)~~]"Approved costs" means:

(a) Obligations incurred for labor and to vendors, contractors, subcontractors, builders, suppliers, deliverymen, and materialmen in connection with the acquisition, construction, rehabilitation, and installation of an economic development project;

(b) The cost of contract bonds and of insurance of all kinds that may be required or necessary during the course of acquisition, construction, rehabilitation, and installation of an economic project which is not paid by the vendor, supplier, deliverymen, contractors, or otherwise else provided;

(c) All costs of architectural and engineering services, including estimates, plans and specifications, preliminary investigations, and supervision of construction, rehabilitation, and installation, as well as for the performance of all the duties required by or consequent upon the acquisition, construction, rehabilitation, and installation of an economic development project;

(d) All costs which shall be required to be paid under the terms of any contract for the acquisition, construction, rehabilitation, and installation of an economic development project;

(e) All costs which shall be required for the installation of utilities such as water, sewer, sewer treatment, gas, electricity, communications, railroads, and similar facilities, and including offsite construction of the facilities paid for by the approved company; and

(f) All other costs comparable to those described above;

(7)[~~(6)~~]"Assessment" means the job development assessment fee authorized by this section to KRS 154.28-100;

(8)[~~(7)~~]"Authority" means the Kentucky Economic Development Finance Authority created by KRS 154.20-010;

(9)[~~(8)~~]"Commonwealth" means the Commonwealth of Kentucky;

(10)[~~(9)~~] (a) "Economic development project" or "project" means and includes:

1. The acquisition of ownership in any real estate by the approved ***manufacturing, electric generation, or agribusiness*** company or its affiliate;

2. The present ownership of real estate by the approved ***manufacturing, electric generation, or agribusiness*** company or its affiliate;[~~ or~~]

3. The acquisition or present ownership of improvements or facilities, as described in paragraph (b) of this subsection, on land which is possessed or is to be possessed by the approved company pursuant to a ground lease having a term of sixty (60) years or more***; or***

4. The new construction of an electric generation facility in a coal producing county. A coal producing county shall mean a county in the Commonwealth of Kentucky that has produced coal upon which the tax imposed under KRS 143.020 was paid at any time.

(b) For purposes of subparagraphs 1. and 2. of paragraph (a) of this subsection, ownership of real estate shall only include fee ownership of real estate and possession of real estate pursuant to a capital lease as determined in accordance with Statement of Financial Accounting Standards No. 13, Accounting for Leases, issued by the

Financial Accounting Standards Board, November 1976. With respect to subparagraphs 1., 2., and 3. of paragraph (a) of this subsection, the construction, installation, equipping, and rehabilitating of improvements, including fixtures and equipment directly involved in the manufacturing process, and facilities necessary or desirable for improvement of the real estate shall include: surveys, site tests, and inspections; subsurface site work and excavation; removal of structures, roadways, cemeteries, and other site obstructions; filling, grading, provision of drainage, and storm water retention; installation of utilities such as water, sewer, sewage treatment, gas, electricity, communications, and similar facilities; offsite construction of utility extensions to the boundaries of the real estate; and the acquisition, installation, equipping, and rehabilitation of manufacturing facilities or agribusiness operations on the real estate for the use of the approved company or its affiliates for manufacturing or agribusiness operational purposes. Pursuant to paragraphs (a)3. and (b) of this subsection, an economic development project shall not include lease payments made pursuant to a ground lease for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-100. An economic development project shall include the equipping of a facility with equipment but, for purposes of the tax credits provided under the provisions of KRS 154.28-010 to 154.28-090, only to the extent of ten thousand dollars ($10,000) per job created by and maintained at the economic development project;

(11)[~~(10)~~] "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, trust, or any other entity engaged in manufacturing***, electric generation,*** or agribusiness operations;

(12)[~~(11)~~] "Inducement" means the assessment and the Kentucky income tax credit as set forth in KRS 154.28-090;

(13)[~~(12)~~] "Manufacturing" means any activity involving the manufacturing, processing, assembling, or production of any property, including the processing resulting in a change in the conditions of the property, and any activity functionally related to it, together with storage, warehousing, distribution, and related office facilities; however, "manufacturing" shall not include mining, coal or mineral processing, or extraction of minerals; and

(14)[~~(13)~~] "State agency" shall have the meaning assigned to the term in KRS 56.440(8).

Section 6. KRS 154.28-015 is amended to read as follows:

The General Assembly hereby finds and declares that the general welfare and material well-being of the citizens of the Commonwealth depends in large measure upon the development and growth of industry in the Commonwealth, and that it is in the best interest of the Commonwealth to induce the location of agribusiness***, electric generation,*** or manufacturing facilities within the Commonwealth in order to advance the public purposes of relieving unemployment by creating new jobs that would not exist if not for the inducements to be offered by the authority to approved companies, and by creating sources of tax revenues for the support of the public services provided by the Commonwealth, and that the authority prescribed by KRS 154.28-015 to 154.28-100, and the purposes to be accomplished under the provisions of KRS 154.28-015 to 154.28-100, are proper governmental and public purposes for which public moneys may be expended, and that the inducement of the location of agribusiness***, electric generation,*** or manufacturing facilities is of paramount importance, mandating that the provisions of KRS 154.28-015 to 154.28-100 be liberally construed and applied in order to advance the public purposes.

Section 7. KRS 154.28-080 is amended to read as follows:

(1) The authority shall promulgate standards for the determination and approval of eligible companies and their economic development projects in accordance with KRS Chapter 13A.

(2) The standards for approval of eligible companies and economic development projects shall include, but not be limited to: the creditworthiness of eligible companies; the number of new jobs to be provided by an economic development project to the residents of the Commonwealth; and the likelihood of the economic success of the economic development project.

(3) The economic development project shall involve a minimum investment of one hundred thousand dollars ($100,000) by the eligible company and shall result in the creation by the eligible company, within two (2) years from the date of the final resolution authorizing the economic development project, of a minimum of fifteen (15) new full-time jobs at the site of the economic development projects for Kentucky residents to be employed by the eligible company and to be held by persons subject to the personal income tax of the Commonwealth. The authority may extend this two (2) year period upon the written application of an eligible company requesting an extension.

(4) No economic development project which will result in the replacement of a manufacturing***, electric generation,*** or agribusiness facility existing within the Commonwealth shall be approved by the authority; however, the authority may approve an economic development project that:

- (a) Rehabilitates a manufacturing***, electric generation,*** or agribusiness facility:
  - 1. Which has not been in operation for a period of ninety (90) or more consecutive days; or
  - 2. The title to which is vested in other than the eligible company or an affiliate of the eligible company and that is sold or transferred pursuant to a foreclosure ordered by a court of competent jurisdiction or an order of a bankruptcy court of competent jurisdiction;
- (b) Replaces a manufacturing ***or electric generation*** facility existing in the Commonwealth:

1. The title to which shall have been taken under the exercise of the power of eminent domain, or the title to which shall be the subject of a nonappealable judgment granting the authority to exercise the power of eminent domain, in either event to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

2. Which has been damaged or destroyed by fire or other casualty to the extent that normal operations cannot be resumed at the facility within twelve (12) months; or

(c) Replaces an existing manufacturing ***or electric generation*** facility located in the same qualified county that cannot be expanded due to the unavailability of real estate at or adjacent to the manufacturing ***or electric generation*** facility to be replaced. Any economic development project satisfying the requirements of this subsection shall be eligible only for inducements to the extent of the expansion, and no inducements shall be available for the equivalent of the manufacturing ***or electric generation*** facility to be replaced. No economic development project otherwise satisfying the requirements of this subsection shall be approved by the authority that results in a lease abandonment or lease termination by the eligible company without the consent of the lessor.

(5) With respect to each eligible company making an application to the authority for inducements, and with respect to these economic development projects described in the application which do not involve an expansion, the authority shall make inquiries and request materials of the applicant, including, but not limited to, written evidence that except for the receipt of inducements authorized by KRS 154.28-015 to 154.28-090 and KRS 141.400, the eligible company will not locate its economic development project within the Commonwealth. Upon the review of the application and completion of initial inquiries, the authority may, by resolution, give its preliminary approval by designating an eligible company as a preliminarily approved company and authorizing the undertaking of the economic development project.

(6) After a diligent review of the relevant materials and completion of its inquiries, the authority, by resolution of its board of directors, may designate an eligible company to be an approved company.

(7) All meetings of the board of directors of the authority shall be held in accordance with KRS 61.805 to 61.850. The board of directors of the authority may, pursuant to KRS 61.815, hold closed sessions of its meetings to discuss matters exempt from the open meetings law and pertaining to an eligible company.

Section 8. KRS 154.28-090 is amended to read as follows:

(1) The authority, upon adoption of an authorizing resolution, may enter into, with any approved company, a financing agreement with respect to its economic development project. The terms and provisions of each agreement, including the amount of approved costs, shall be determined by negotiations between the authority and the approved company, except that each agreement shall include the following provisions:

(a) The term of an agreement, which shall commence on the date of the agreement, shall not be longer than the earlier of the following:

1. The maturity of loans or other financing incurred in connection with the economic development project, except that the agreement may be terminated upon the earlier prepayment of loans or other financing incurred in connection with the economic development project; or

2. Ten (10) years from the activation date of the original agreement.

(b) All proceeds of any loan or other financing incurred in connection with the economic development project shall be expended by the approved company within three (3) years from the date of the financing agreement. In the event that all proceeds of any loan or other financing incurred in connection with the economic development project are not fully expended within the three (3) year period, the authorized inducements shall automatically be reduced to and shall not be greater than the amount of proceeds actually expended by the approved company within the three (3) year period.

(c) In consideration for the execution and during the term of the agreement, the approved company shall be permitted either of the following during the term of the agreement:

1. A credit against Kentucky income tax imposed by KRS 141.020 or 141.040 on the income of the approved company generated by or arising out of the economic development project as determined by KRS 141.400; or

2. The aggregate assessment withheld by the approved company in each year.

(2) The agreement shall provide that:

(a) 1. The assessments, if applicable, shall not exceed the annual payments of the total financing agreement by the approved company in any year; however, to the extent that the financing agreement annual payments exceed assessments collected in any year, the excess payment may be recouped from assessment collections in succeeding years.

2. If in any fiscal year of the approved company during which the financing agreement is in effect the total assessments collected from the wages of the employees equals the annual payment pursuant to the financing agreement, and if all excess payments pursuant to the financing agreement accumulated in prior

years have been recouped, the assessments collected from the wages of the employees shall cease for the remainder of that fiscal year of the approved company, and the approved company shall resume normal personal income tax withholdings from employees' wages for the remainder of that fiscal year.

(b) The Kentucky income tax credit, in any fiscal year of the approved company, shall not exceed the total debt service paid during the same fiscal year with respect to the loans or other financing incurred in connection with the economic development project; however, to the extent that annual debt service payments exceed the annual income tax credits in any year, the excess debt service payments may be recouped from excess tax credits in succeeding years.

(c) The income tax credited to the approved company shall be credited for the fiscal year for which the tax return of the approved company is filed. The approved company shall not be required to pay estimated income tax payments as prescribed under KRS 141.042.

(d) The agreement may be assigned by the approved company only upon the prior written consent of the authority following the adoption of a resolution by the authority to that effect.

(e) An approved company shall require of any lender to an approved company funding the loans or other financing incurred in connection with the economic development project, written evidence of all annual debt service to the lender, which evidence shall be provided in writing to the authority within forty-five (45) days following the close of each fiscal year of the financing agreement.

(f) If an approved company fails to comply with its respective obligations under the financing agreement, the lender to an approved company fails to comply with the provisions of subsection (2)(e) of this section, or an approved company is declared in default under the loans or other financing incurred in connection with the economic development project, the authority, or any of its assignees, may, at its option:

1. Suspend the availability of the income tax credits or job development assessment fees, as applicable;
2. Pursue any remedy provided under the financing agreement, including termination of the agreement; and
3. Pursue any other remedy at law to which it may appear entitled.

(3) All remedies provided in subsection (2)(f) of this section shall be deemed cumulative.

(4) Pursuant to this section, the activation date shall be established by the approved company in the financing agreement which shall be at any time in a two (2) year period after the date of final approval of the financing agreement by the authority. To implement the activation date, the approved company shall notify the authority, the Kentucky Revenue Cabinet, and the approved company's employees of the activation date on which implementation of the inducements authorized in the financing agreement shall occur. The activation date shall be the time when the maximum dollar value of equipment that constitutes a portion of an economic development project under KRS 154.28-010***(10)***~~[(9)]~~ shall be determined. If the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) by the activation date, the approved company will not be entitled to receive inducements pursuant to this subchapter until the approved company satisfies these requirements; however, the ten (10) year period for the term of the financing agreement shall begin from the activation date. Notwithstanding the previous sentence, if the approved company does not satisfy the minimum investment and minimum employment requirements of KRS 154.28-080(3) within two (2) years from the date of final approval of the financing agreement, then the approved company shall be ineligible to receive inducements under this subchapter unless an extension is approved by the authority.

(5) Ninety (90) days after the filing of the tax return of the approved company, the Revenue Cabinet shall certify to the authority the income tax liability, for the preceding fiscal year of the approved company for which the return was filed, of the approved company with respect to an economic development project receiving inducements under the provisions of KRS 154.28-010 to 154.28-090 and KRS 141.400, and the amount of any income tax credits taken pursuant to KRS 154.28-010 to 154.28-090 and KRS 141.400.

Section 9. KRS 154.28-120 is amended to read as follows:

(1) If the authority gives its preliminary approval designating an eligible company and authorizing the undertaking of an economic development project prior to July 15, 1996, and the authority by final approval approves the eligible company as an approved company and the project of the eligible company as an economic development project, and the authority and the eligible company enter into a financing agreement not later than June 30, 1997, then the approved company shall not be subject to KRS 154.28-010***(7)***~~[(6)]~~, 154.28-010***(10)***~~[(9)]~~ except to the extent of any reference to a capital lease, 154.28-010***(12)***~~[(11)]~~, 154.28-080(3), 154.28-090, and 154.28-110, and shall be subject to KRS 154.28-010***(10)***~~[(9)]~~, 154.28-080, and 154.28-090, as in effect prior to July 15, 1996.

(2) Subject to those approved companies described in subsection (1) of this section, KRS 154.28-110 shall only apply to those approved companies which enter into financing agreements with the authority after July 15, 1996.

Section 10. KRS 139.170 is amended to read as follows:

(1) "Machinery for new and expanded industry" means machinery used directly in the manufacturing or processing production process, which is incorporated for the first time into plant facilities established in this state, and which does not

replace machinery in the plants, or that machinery purchased to replace existing machinery which will increase the consumption of recycled materials at a facility by not less than ten percent (10%). ***Machinery for new and expanded industry shall also include the manufacturing machinery and equipment to combust coal or any gas or liquid derived from coal for the purpose of generating electricity.*** The term "machinery for new and expanded industry" does not include repair, replacement, or spare parts of any kind regardless of whether the purchase of repair, replacement, or spare parts is required by the manufacturer or vendor as a condition of sale or as a condition of warranty. The term "processing production" shall include: the processing and packaging of raw materials, in-process materials, and finished products; the processing and packaging of farm and dairy products for sale; and the extraction of minerals, ores, coal, clay, stone, and natural gas.

(2) For the purposes of this section, the term:

(a) "Repair, replacement, or spare parts" means any tangible personal property used to maintain, restore, mend, or repair machinery or equipment. "Repair, replacement, or spare parts" does not include machine oils, grease, or industrial tools.

(b) "Recycled materials" means materials which have been recovered or diverted from the solid waste stream and reused or returned to use in the form of raw materials or products.

Section 11. KRS 139.480 is amended to read as follows:

Any other provision of this chapter to the contrary notwithstanding, the terms "sale at retail," "retail sale," "use," "storage," and "consumption," as used in this chapter, shall not include the sale, use, storage, or other consumption of:

(1) Locomotives or rolling stock, including materials for the construction, repair, or modification thereof, or fuel or supplies for the direct operation of locomotives and trains, used or to be used in interstate commerce;

(2) Coal for the manufacture of electricity;

(3) All energy or energy-producing fuels used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production. Cost of production shall be computed on the basis of plant facilities which shall mean all permanent structures affixed to real property at one (1) location;

(4) Livestock of a kind the products of which ordinarily constitute food for human consumption, provided the sales are made for breeding or dairy purposes and by or to a person regularly engaged in the business of farming;

(5) Poultry for use in breeding or egg production;

(6) Farm work stock for use in farming operations;

(7) Seeds, the products of which ordinarily constitute food for human consumption or are to be sold in the regular course of business, and commercial fertilizer to be applied on land, the products from which are to be used for food for human consumption or are to be sold in the regular course of business; provided such sales are made to farmers who are regularly engaged in the occupation of tilling and cultivating the soil for the production of crops as a business, or who are regularly engaged in the occupation of raising and feeding livestock or poultry or producing milk for sale; and provided further that tangible personal property so sold is to be used only by those persons designated above who are so purchasing;

(8) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals to be used in the production of crops as a business, or in the raising and feeding of livestock or poultry, the products of which ordinarily constitute food for human consumption;

(9) Feed, including pre-mixes and feed additives, for livestock or poultry of a kind the products of which ordinarily constitute food for human consumption;

(10) Machinery for new and expanded industry;

(11) Farm machinery. As used in this section, the term "farm machinery" means machinery used exclusively and directly in the occupation of tilling the soil for the production of crops as a business, or in the occupation of raising and feeding livestock or poultry or of producing milk for sale. The term "farm machinery," as used in this section includes machinery, attachments, and replacements therefor, repair parts, and replacement parts which are used or manufactured for use on, or in the operation of farm machinery and which are necessary to the operation of the machinery, and are customarily so used; but this exemption shall not include automobiles, trucks, trailers, and truck-trailer combinations;

(12) Property which has been certified as a pollution control facility as defined in KRS 224.01-300, and all materials, supplies, and repair and replacement parts purchased for use in the operation or maintenance of the facilities used specifically in the steel-making process. The exemption provided in this subsection for materials, supplies, and repair and replacement parts purchased for use in the operation of pollution control facilities shall be effective for sales made through June 30, 1994;

(13) Tombstones and other memorial grave markers;

(14) On-farm facilities used exclusively for grain or soybean storing, drying, processing, or handling. The exemption applies to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(15) On-farm facilities used exclusively for raising poultry or livestock. The exemption shall apply to the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply, but not be limited to, vent board equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(16) Gasoline, special fuels, liquefied petroleum gas, and natural gas used exclusively and directly to:

 (a) Operate farm machinery as defined in subsection (11) of this section;
 (b) Operate on-farm grain or soybean drying facilities as defined in subsection (14) of this section;
 (c) Operate on-farm poultry or livestock facilities defined in subsection (15) of this section;
 (d) Operate-on farm ratite facilities defined in subsection (24) of this section;
 (e) Operate on-farm llama or alpaca facilities as defined in subsection (26) of this section; or
 (f) Operate on-farm dairy facilities;

(17) Textbooks, including related workbooks and other course materials, purchased for use in a course of study conducted by an institution which qualifies as a nonprofit educational institution under KRS 139.495. The term "course materials" means only those items specifically required of all students for a particular course but shall not include notebooks, paper, pencils, calculators, tape recorders, or similar student aids;

(18) Any property which has been certified as an alcohol production facility as defined in KRS 247.910;

(19) Aircraft, repair and replacement parts therefor, and supplies, except fuel, for the direct operation of aircraft in interstate commerce and used exclusively for the conveyance of property or passengers for hire. Nominal intrastate use shall not subject the property to the taxes imposed by this chapter;

(20) Any property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(21) Any property to be incorporated into the construction, rebuilding, modification, or expansion of a blast furnace or any of its components or appurtenant equipment or structures. The exemption provided in this subsection shall be effective for sales made through June 30, 1994;

(22) Beginning on October 1, 1986, food or food products purchased for human consumption with food coupons issued by the United States Department of Agriculture pursuant to the Food Stamp Act of 1977, as amended, and required to be exempted by the Food Security Act of 1985 in order for the Commonwealth to continue participation in the federal food stamp program;

(23) Machinery or equipment purchased or leased by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes;

(24) Ratite birds and eggs to be used in an agricultural pursuit for the breeding and production of ratite birds, feathers, hides, breeding stock, eggs, meat, and ratite by-products, and the following items used in this agricultural pursuit:

 (a) Feed and feed additives;
 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;
 (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to incubation systems, egg processing equipment, waterer and feeding systems, brooding systems, ventilation systems, alarm systems, and curtain systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(25) Embryos and semen that are used in the reproduction of livestock, if the products of these embryos and semen ordinarily constitute food for human consumption, and if the sale is made to a person engaged in the business of farming;

(26) Llamas and alpacas to be used as beasts of burden or in an agricultural pursuit for the breeding and production of hides, breeding stock, fiber and wool products, meat, and llama and alpaca by-products, and the following items used in this pursuit:

 (a) Feed and feed additives;
 (b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and
 (c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery,

attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(27) Baling twine and baling wire for the baling of hay and straw;

(28) Water sold to a person regularly engaged in the business of farming and used in the:

(a) Production of crops;

(b) Production of milk for sale; or

(c) Raising and feeding of:

1. Livestock or poultry, the products of which ordinarily constitute food for human consumption; or

2. Ratites, llamas, alpacas, buffalo, or aquatic organisms;

(29) Buffalos to be used as beasts of burden or in an agricultural pursuit for the production of hides, breeding stock, meat, and buffalo by-products, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals;

(c) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities. The exemption shall apply to waterer and feeding systems, ventilation systems, and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;~~[and]~~

(30) Aquatic organisms sold directly to or raised by a person regularly engaged in the business of producing products of aquaculture, as defined in KRS 260.960, for sale, and the following items used in this pursuit:

(a) Feed and feed additives;

(b) Water;

(c) Insecticides, fungicides, herbicides, rodenticides, and other farm chemicals; and

(d) On-farm facilities, including equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities and, any gasoline, special fuels, liquified petroleum gas, or natural gas used to operate the facilities. The exemption shall apply, but not be limited to: waterer and feeding systems; ventilation, aeration, and heating systems; processing and storage systems; production systems such as ponds, tanks, and raceways; harvest and transport equipment and systems; and alarm systems. In addition, the exemption shall apply whether or not the seller is under contract to deliver, assemble, and incorporate into real estate the equipment, machinery, attachments, repair and replacement parts, and any materials incorporated into the construction, renovation, or repair of the facilities;

(31) Limestone used to abate sulfur dioxide emissions when generating electricity; and

(32) Chemicals and industrial machinery used directly in the process of controlling carbon dioxide, carbon monoxide, sulfur dioxide, nitrous oxide, and particulate emissions when generating electricity. Industrial machinery means the same as defined in KRS 139.486 except that it shall not be restricted to only machinery that is manufactured in Kentucky.

SECTION 12. A NEW SECTION OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

The secretary of the Natural Resources and Environmental Protection Cabinet shall facilitate the permitting of coal-fired electric generation plants in the Commonwealth by developing procedures for one (1) stop shopping for environmental permits.

HCR 108, A CONCURRENT RESOLUTION urging the President of the United States and the Congress to support Kentucky Senator Jim Bunning in his effort to direct additional federal cleanup funding to Kentucky and obtain passage of the Clean the Land and Environment of Appalachia Now (CLEAN) Act.

WHEREAS, abandoned mines are a serious environmental hazard in Kentucky and many other states; and

WHEREAS, the United States Environmental Protection Agency (EPA) has identified drainage from abandoned coal mines as the number-one water quality problem in Appalachia; and

WHEREAS, an estimated ten percent (10%) of Kentucky residents do not have safe drinking water due to contamination from abandoned mine runoff; and

WHEREAS, the Surface Mining Control and Reclamation Act of 1977 authorized the Abandoned Mine Reclamation Fund to pay the reclamation costs of abandoned coal mines; and

WHEREAS, the Abandoned Mine Land (AML) Reclamation Fund has incurred a $1,200,000,000 surplus; and

WHEREAS, it is estimated that if the AML fund is distributed directly to Kentucky and the other mining states, Kentucky will receive over $90,000,000 for land and water reclamation, as compared to the $17,000,000 that is currently received; and

WHEREAS, the AML fund has been used in the past to offset the federal budget deficit, and now we have a federal surplus; and

WHEREAS, United States Senator Jim Bunning of Kentucky introduced the Clean the Land and Environment of Appalachia Now (CLEAN) Act that would grant the full amount of the AML fund to the coal-producing states to assist with the costs associated with the cleanup of abandoned coal mines; and

WHEREAS, the CLEAN Act would address the environmental problems associated with abandoned coal mines, improve the quality of water in mining areas including Kentucky, and restore the natural beauty of the area;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The President of the United States and the Congress are urged to support United States Senator Jim Bunning in his efforts to gain passage of the Clean the Land and Environment of Appalachia Now (CLEAN) Act.

Section 2. A copy of this Concurrent Resolution is hereby directed to be transmitted to the President of the United States and to each member of the Congressional delegation representing the people of the Commonwealth of Kentucky.

Calendar

HB 421, HB 452, HB 567, HB 570, HB 575, HB 598, HB 676, HB 565, HB 780, HCR 112, SB 59, HB 57, HB 318, HB 464, HB 635, HB 698, HB 712, HB 713, HB 733, HB 737, and **HCR 54** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 696, HB 693, HB 136, HB 268, SJR 17, HB 565, HB 567, HB 570, HB 598, HCR 54,** and **HCR 112** have been posted for passage in the Orders of the Day for March 2, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 421, HB 464, HB 575**

Senate Message

Announcing passage of **SB 51, SB 159, SB 160, SB 167, SB 172, SB 188, SB 189, SB 198, SB 224, SB 233, SB 240, SB 256, SJR 76, HB 61, HB 113,** and **HB 295.**

Message received on **HB 204**: The Senate has passed **HB 204** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body. (Time: 2:45 p.m.)

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 97** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:57 p.m.)

Orders of the Day

HB 544 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 544** be passed.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 1 , 2000 roll call on **HB 544** - Appendix.)

HB 544 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 544** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 105 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 105** be passed.

On the roll call the vote was: **Yeas 99, Nays 0**. (See March 1 , 2000 roll call on **HB 105** - Appendix.)

HB 105 was passed and the title agreed to.

HB 562, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved the adoption of the Committee Substitute to **HB 562**. Agreed.

Representative Baugh moved that **HB 562**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 1, 2000 roll call on **HB 562** - Appendix.)

HB 562, by way of Committee Substitute, was passed and the title agreed to.

Representative Baugh moved that the vote by which **HB 562**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 44 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **HB 44** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 1 , 2000 roll call on **HB 44** - Appendix.)

HB 44 was passed and the title agreed to.

Representative Crimm moved that the vote by which **HB 44** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 621, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of Committee Amendment No. 1 to **HB 621**. Agreed.

Representative Thomas moved that **HB 621**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 5**. (See March 1, 2000 roll call on **HB 621** - Appendix.)

HB 621, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 621**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 725 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative A. Arnold moved that **HB 725** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 1, 2000 roll call on **HB 725** - Appendix.)

HB 725 was passed and the title agreed to.

Representative A. Arnold moved that the vote by which **HB 725** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 415, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of Committee Amendment No. 1 to **HB 415**. Agreed.

Representative Gooch moved the adoption of Floor Amendment No. 1 to **HB 415**. Agreed.

Representative Gooch moved that **HB 415**, as amended, be passed.

On the roll call the vote was: **Yeas 90, Nays 5**. (See March 1, 2000 roll call on **HB 415** - Appendix.)

HB 415, as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 415**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 522, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Wayne moved the adoption of the Committee Substitute to **HB 522**. Agreed.

Representative Wayne moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 522**. Agreed.

Representative Wayne moved that **HB 522**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 56, Nays 42**. (See March 1, 2000 roll call on **HB 522** - Appendix.)

HB 522, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Wayne moved that the vote by which **HB 522**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 61, HB 113,** and **HB 295** have been examined and found correctly enrolled. Said Bills were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:22 p.m.)

Orders of the Day (Continued)

HB 656, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 656** be placed back in the Orders of the Day and retain its position. Agreed.

HB 361, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ford moved the adoption of Committee Amendment No. 1 to **HB 361**. Agreed.

Representative Ford moved that **HB 361**, as amended, be passed.

On the roll call the vote was: **Yeas 92, Nays 3**. (See March 1, 2000 roll call on **HB 361** - Appendix.)

HB 361, as amended, was passed and the title agreed to.

Representative Ford moved that the vote by which **HB 361**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 579 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 579** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 1 , 2000 roll call on **HB 579** - Appendix.)

HB 579 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 579** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 354, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 354**. Agreed.

Representative Gooch moved that **HB 354**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 89, Nays 7**. (See March 1, 2000 roll call on **HB 354** - Appendix.)

HB 354, by way of Committee Substitute, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 354**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 88 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HCR 88** be adopted.

On the roll call the vote was: **Yeas 94, Nays 2**. (See March 1, 2000 roll call on **HCR 88** - Appendix.)

HCR 88 was adopted.

Representative Treesh moved that the vote by which **HCR 88** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 220, with Committee Substitutes and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute No. 2 to **HB 220**. Agreed.

Representative Damron moved that **HB 220**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 1, 2000 roll call on **HB 220** - Appendix.)

HB 220, by way of Committee Substitute, was passed.

Representative Damron moved the adoption of Committee Amendment No. 1 Title to **HB 220**. Agreed; and the title was agreed to.

Representative Damron moved that the vote by which **HB 220**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions and Communications

Representative Stumbo moved that **SB 155** be reassigned to the Committee on State Government. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 100, HB 706, HB 599, HB 606, HB 765, HB 875, HB 803, HB 884,** and **SB 229** be waived. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 2, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Bills and Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Bills and Resolutions (Continued)

HB 976, by Representative Palumbo: AN ACT relating to school funding.

HB 977, by Representatives Webb and Stein: AN ACT relating to telecommunication services for prisoners.

HB 978, by Representatives Coleman and Wilkey: AN ACT relating to motor carriers.

HB 979, by Representative Richards: AN ACT relating to aquaculture.

HB 980, by Representative Westrom: AN ACT relating to long-term care facilities.

HB 981, by Representative Sims: AN ACT relating to the tobacco Master Settlement Agreement, making an appropriation therefor, and declaring an emergency.

HB 982, by Representatives Webb and Stumbo: AN ACT relating to the nonregulated activities of regulated utilities and their affiliates.

HB 983, by Representative Wayne: AN ACT relating to employment provisions.

HB 984, by Representative Crall: AN ACT relating to budget statements.

HB 985, by Representative Ford: AN ACT relating to psychologists.

HB 986, by Representatives J. Turner, T. Turner, Upchurch, and Ausmus: AN ACT relating to the jurisdiction of peace officers.

HB 987, by Representatives J. Turner and Rader: AN ACT relating to crimes and punishments.

HB 988, by Representatives J. Turner, D. D. Butler, Hoffman, Anderson, Gray, Haydon, C. Belcher, Napier, Vincent, Feeley, Rader, A. Arnold, Crall, Wilkey, Alexander, Stacy, Stewart, Ausmus, Geveden, T. Turner, Upchurch and Tapp: AN ACT relating to traffic signs.

HB 989, by Representatives J. Turner and Childers: AN ACT relating to spotlighting.

HB 990, by Representatives Upchurch and J. Turner: AN ACT relating to mineral rights.

HB 991, by Representative McKee: AN ACT relating to authorized uses of funds in jail and prisoners' inmate funds.

HB 992, by Representative Stumbo: AN ACT relating to workers' compensation.

HB 993, by Representative J. Arnold: AN ACT relating to employment agencies.

HB 994, by Representative J. Arnold: AN ACT relating to jailers.

HB 995, by Representative Riggs: AN ACT relating to local government insurance premium taxes.

HB 996, by Representative Stumbo: AN ACT relating to revenue and taxation.

HB 997, by Representative J. Arnold: AN ACT relating to health insurance.

HB 998, by Representatives Crall and Gooch: AN ACT relating to health insurance.

HB 999, by Representative Thomas: AN ACT relating to the jurisdiction of sheriffs.

HB 1000, by Representative Hoffman: AN ACT relating to county license fees.

HB 1001, by Representative Thomas: AN ACT relating to sales tax.

HB 1002, by Representative Thomas: AN ACT relating to sales and use tax.

HB 1003, by Representative Thomas: AN ACT relating to audiology.

HB 1004, by Representative Anderson: AN ACT relating to the Kentucky Educational Excellence Scholarship.

HB 1005, by Representative Anderson: AN ACT relating to residential housing for minor females and making an appropriation therefor.

HB 1006, by Representative Nesler: AN ACT relating to the mass foreclosure of nuisance liens.

HB 1007, by Representative Anderson: AN ACT proposing to amend Sections 170 and 226 of the Kentucky Constitution relating to revenue and taxation.

HB 1008, by Representative Anderson: AN ACT relating to crimes and punishments.

HB 1009, by Representative Anderson: AN ACT relating to funding resources for Medicaid coverage for low-income families, making an appropriation therefor, and declaring an emergency.

HB 1010, by Representatives Branham, Stumbo, Vincent, Hoffman, Bratcher, Horlander, Miller, P. Clark, Johns, and L. Clark: AN ACT relating to firefighters.

HB 1011, by Representatives L. Clark and Haydon: AN ACT relating to capital projects.

HB 1012, by Representative Riner: AN ACT relating to breast-feeding.

HB 1013, by Representative Riner: AN ACT relating to solid waste.

HB 1014, by Representatives Weaver and Johns: AN ACT relating to local option precinct elections.

HB 1015, by Representative Barrows: AN ACT relating to the county employment retirement system.

HB 1016, by Representative Barrows: AN ACT relating to mortgage loan companies and loan brokers.

HB 1017, by Representative Anderson: AN ACT relating to disposition of firearms and ammunition.

HB 1018, by Representative Anderson: AN ACT relating to revenue and taxation.

HB 1019, by Representative Ratliff: AN ACT relating to small claims.

HB 1020, by Representative Ratliff: AN ACT relating to senior citizen centers.

HB 1021, by Representative Ratliff: AN ACT relating to the American linden tree.

HB 1022, by Representative Ratliff: AN ACT relating to crimes and punishments.

HB 1023, by Representatives Palumbo, Johns, Jordan, Gooch, Rader, C. Belcher, Colter, Westrom, Webb, Jenkins, Nunn, and Marzian: AN ACT relating to crimes and punishments.

HB 1024, by Representative Childers: AN ACT relating to the salaries of fee officers.

HB 1025, by Representatives Johns, Crimm, Bather, Bratcher, Horlander, Jenkins, Riggs, L. Clark, Marzian, and Burch: AN ACT relating to crimes and punishments.

HB 1026, by Representatives Upchurch, Tapp, T. Turner, and Allen: AN ACT relating to public agencies.

HB 1027, by Representative C. Belcher: AN ACT relating to public notices.

HB 1028, by Representatives Johns, Marzian, Damron, Jenkins, Bratcher, Palumbo , Stein, Webb, P. Clark, and Horlander: AN ACT relating to crimes and punishments.

HB 1029, by Representative J. Arnold: AN ACT relating to income tax.

HB 1030, by Representative J. Arnold: AN ACT relating to licensed and certified professionals.

HB 1031, by Representative Anderson: AN ACT relating to revenue and taxation.

HB 1032, by Representative Johns: AN ACT relating to access to information technology.

HCR 136, by Representatives Weaver and Cornett: A CONCURRENT RESOLUTION directing the Legislative Research Commission to establish a Motor Vehicle Insurance Study Group to clarify the issues regarding uninsured drivers and to formulate recommendations to be presented to the 2002 Regular Session of the Kentucky General Assembly.

HR 137, by Representative Branham: A RESOLUTION in support of multiple sclerosis awareness.

HJR 138, by Representative Thomas: A JOINT RESOLUTION authorizing and directing the Kentucky Department of Fish and Wildlife Resources, in cooperation with the Kentucky Aquaculture Task Force and Kentucky State University, to conduct and facilitate a series of statewide public meetings relating to the public support and feasibility of reservoir ranching of paddlefish in public waters managed by the Kentucky Department of Fish and Wildlife Resources, and making an appropriation therefor.

HCR 139, by Representative Jenkins: A CONCURRENT RESOLUTION directing the Legislative Research Commission to create a Task Force on Violence in the Workplace.

HR 140, by Representatives Bather, Stumbo and L. Clark: A RESOLUTION urging the Governor to support the recruitment of a National Basketball Association franchise to Kentucky by supporting construction of a new sports arena.

HJR 141, by Representative Riner: A JOINT RESOLUTION directing Kentucky's four-year public universities to establish a competitive Eagle Scout Scholarship program modeled after the successful University of Louisville program.

HJR 142, by Representative Riner: A JOINT RESOLUTION directing the Cabinet for Economic Development, the Transportation Cabinet, and Department of Education to coordinate their efforts and address the obstacles limiting the effectiveness of economic development efforts in counties with high unemployment, low educational attainment levels, and low per capita income.

HJR 143, by Representative Riner: A JOINT RESOLUTION promoting state government energy conservation and recycling programs.

HJR 144, by Representative Riner: A JOINT RESOLUTION directing the medical schools of Kentucky to adopt policies that would make the Commonwealth the nation's premier state in having the highest percentage of students with a disability who are admitted to and graduate from its three medical schools.

HJR 145, by Representative Riner: A JOINT RESOLUTION directing the Governor to purchase sufficient postage and deposit a sufficient amount of state agency mail in smaller Kentucky Post Offices in an effort to qualify the maximum number as full eight-hour-per-day Post Offices.

HCR 146, by Representative Anderson: A CONCURRENT RESOLUTION authorizing and directing a comprehensive study of state economic development incentive programs in Kentucky.

HCR 147, by Representative Hoffman: A CONCURRENT RESOLUTION creating an Advisory Committee on City and County Relations.

HCR 148, by Representative Anderson: A CONCURRENT RESOLUTION directing the Interim Joint Committee on Appropriations and Revenue to study the issue of the cost effectiveness of the assessment of unmined minerals.

Report On Enrolled Bills (Continued)

HB 61, HB 113, and **HB 295** delivered to the Senate and signed by the President. Delivered to the Governor on March 1, 2000 at 3:36 p.m.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Banking and Insurance: **SB 150, SB 232, HB 765, HB 835, HB 875, HB 547**

Agriculture and Small Business: **HB 891**

Health and Welfare: **HB 667, HB 762, HB 771, HB 886, HB 888**

Education: **HB 675, SB 76, HB 847, SB 229, SB 143, HB 850, SB 236, HB 803, HB 884, SB 46, HB 873, HB 883**

Appropriations and Revenue: **HB 554, HB 571**

Motions, Petitions and Communications (Continued)

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that his vote be changed from "yea" to "nay" on **HB 522**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that he be recorded as voting "nay" on **HB 541**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ford moved that his vote be changed from "nay" to "yea" on **HCR 88**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that she be recorded as voting "yea" on **HB 544**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 44**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thomas moved that his vote be changed from "yea" to "nay" on **HB 522**. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that his vote be changed from "nay" to "yea" on **HCR 88**. Agreed.

Representative Barrows moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Barrows moved that he be recorded as voting "yea" on **HB 544**. Agreed.

Representative Johns moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Johns moved that her vote be changed from "nay" to "yea" on **HB 522**. Agreed.

Representative Ford moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ford moved that he be recorded as voting "yea" on **HB 545, HB 308, HB 665, HB 85, HB 605, HB 662, HB 623, HB 608, HB 549, HB 603, HB 506, HB 643, HB 386, HB 254, HB 510, HB 541, HB 631, HB 536,** and SB 97. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 327**, by Representative Yonts:

On page 5, after line 20, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 238 IS CREATED TO READ AS FOLLOWS:

A common school as defined in KRS 158.030, a nonpublic elementary and secondary school, an institution as defined in KRS 164.001, an institution of higher education as defined in KRS 164A.305, any charitable organization with total gross receipts not exceeding five thousand dollars ($5,000), or any booster, alumni, or support group that is associated with the school or institution that is exempt from the licensure requirements because they do not meet the threshold dollar amount as established in subsection (1) of Section 1 of this Act, shall be exempt from filing with the department the end-of-the-year financial report required of exempt organizations in Section 1 of this Act.".

Floor Amendment No. 1 to Committee Substitute to **HB 663**, by Representative Haydon:

On page 1, after line 21, by deleting lines 22 through 25 in their entirety; and

On page 2, by deleting lines 1 through 4 in their entirety, and inserting in lieu thereof the following:

"***(f) Ship to a customer wine produced by a small winery or a farm winery if:***

1. The wine is purchased by the customer in person at the small winery;

2. The wine is shipped by licensed common carrier; and

3. The amount of wine shipped is limited to two (2) cases per customer.";

On page 4, after line 3, by deleting lines 4 through 11 in their entirety and inserting in lieu thereof the following:

"***(h) Ship to a customer wine produced by a farm winery or a small winery if:***

1. The wine is purchased by the customer in person at the farm winery;

2. The wine is shipped by licensed common carrier; and

3. The amount of wine shipped is limited to two (2) cases per customer."; and

On page 5, line 26, after the date "June 30,", by deleting the year "***2010***" and inserting in lieu thereof the year "***2004***".

Floor Amendment No. 3 to Committee Substitute to **HB 584**, by Representative Gray:

On Page 1, Line 18 to Page 4, Line 17 by deleting Section 2 in its entirety.

Floor Amendment No. 1 to **HB 641**, by Representative Crall:

On page 4, after line 16 by inserting the following:

"***(11) The death benefit provided in subsection (9) of this section may be cited as the Baughn Benefit.***"

Floor Amendment No. 2 to the Committee Substitute to **HB 522**, by Representative Vincent:

On page 1, Line 3 after the word "***(1)***" by inserting the following words, "***In a county containing a city of the first class and all cities in that county:***" and inserting a return;

On Page 1, Line 20 after the word "***(2)***" by inserting the following words, "***In a county containing a city of the first class and all cities in that county:***" and inserting a return;

On Page 2, Line 12 after the word "***planning***" by deleting the word "***commission***" and inserting the word "***commissions***" in lieu thereof;

On Page 2, Line 12 after the word "***commission***" by inserting the following words, "***in a county containing a city of the first class and all cities in that county:***";

On Page 2, Line 12 after the first use of the word "***legislative***" by deleting the word "***body***" and inserting the word "***bodies***"

On Page 2, Line 12 after the second use of the word "***the***" by deleting the word "***city,***" and inserting the word "***cities***" in lieu thereof;

On Page 2, Line 12 after the word "***city***" by inserting the word, "***or***";

On Page 2, Lines 12 to 13, after the word "***county***" by deleting the following words, "***, urban-county, or charter county government***";

On Page 3, Line 3 after the word "***commission***" by inserting the following words, "***in a county containing a city of the first class and all cities in that county***";

On Page 3, Line 11 after the word "***assistants***" by inserting the following words, "***in a county containing a city of the first class and all cities in that county***";

Page 3, Line 18 after the word "***member***" by inserting the following words, "***in a county containing a city of the first class and all cities in that county***";

On Page 4, Lines 1 to 3 after the word "***No***" by deleting the following words, "***city, county, urban-county, charter county, planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100 shall employ a***"; and

On Page 4, Line 6 after the word "***section***" by inserting the following words, "***shall be employed by a planning commission, board of adjustment, or any entity performing local planning under KRS Chapter 100 in a county containing a city of the first class and all cities in that county***".

Floor Amendment No. 1 to the House Committee Substitute to **SJR 57**, by Representative Cox:

On page 10, after line 21, by adding the following:

"Section 8. Each school council or, if none exists, the school, shall post the preamble to the Constitution of the Commonwealth of Kentucky in all public school classroom buildings, as follows: "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution."

Floor Amendment No. 1 to **HB 814**, by Representative Cox:

On page 1, after line 14, by inserting the following:

"***(3) A school council, under KRS 160.345, or if none exists, the school, shall post the preamble to the Constitution of the Commonwealth of Kentucky in all public school classroom buildings, as follows: "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution."***

Floor Amendment No. 3 to the Committee Substitute to **HB 296**, by Representative Vincent:

On page 29, after line 27, insert:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS Chapters 600 to 645, the contempt punishment under KRS Chapters 600 to 645 shall be in the sole discretion of the court."; and

On page 30, line 1, delete "18" and insert in lieu thereof "19".

Floor Amendment No. 2 to **HB 296**, by Representative Vincent:

On page 26, between lines 11 and 12, insert:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS Chapters 600 to 645, the contempt punishment under KRS Chapters 600 to 645 shall be in the sole discretion of the court."; and

On page 26, line 12, delete "16" and insert in lieu thereof "17".

Floor Amendment No. 1 to **HB 618**, by Representative Jenkins:

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Floor Amendment No. 1 Title to **HB 116**, by Representative Palmer:

The title, following "punishments" to add: "and naming the statute "Bryan's Law"".

Floor Amendment No. 2 to **HB 697**, by Representative Cave:

On page 2, line 8 by deleting "***State Health Benefits Commission, created in Section 2 of this Act***", and by removing the bracket and strike through from "secretary";

On page 2, by removing the strike through from line 9 in its entirety;

On page 2, line 10 by removing the strike through and the bracket from "secretary of the Personnel Cabinet";

On page 3, line 11 by deleting "***State Health Benefits Commission***" and by removing the bracket and strike through from "secretary of the Finance and";

On page 3, by removing the strike through from line 12 in its entirety;

On page 3, line 13 by removing the strike through and the bracket from "Cabinet,";

On page 5, line 11 by deleting "***State Health Benefits Commission***" and by removing the bracket and strike through from "secretary of the Finance and";

On page 5, line 12, by removing the strike through and the bracket from "Administration Cabinet";

On page 6, line 20 after "***to***" and before "***procure***" by inserting "***serve as an advisory group to the secretary of the Finance and Administration Cabinet to advise the secretary or his or her designee regarding the state health insurance program for state employees.***" and by deleting "***procure***";

On page 6 by deleting lines 21 to 25 in their entirety;

On page 6, line 26 after "***of***" and before "***ten***" by inserting "***seven (7)***" and by deleting "***ten (10) members. The***";

On page 6, by deleting line 27 in its entirety;

On page 7, by deleting lines 1 to 3 in their entirety;

On page 7, line 4 by deleting "***State Employees Health Benefits Advisory Committee, and four (4)***";

On page 7, line 6 after "***The***" and before "***four***" by inserting "***seven (7)***" and by deleting "***four (4)***";

On page 7, line 13 after "***(c)***" and before "***One***" by inserting "***Two (2)***" and by deleting "***One (1)***", by deleting "***teacher***" and by inserting in lieu thereof "***teachers***";

On page 7, line 15 after "***(d)***" and before "***One***" by inserting "***Three (3)***" and by deleting "***One (1)***", by deleting "***employee***" and by inserting in lieu thereof "***employees***";

On page 7, line 23 after "***(5)***"by deleting the rest of line 23 in its entirety;

On page 7, by deleting lines 24 and 25 in their entirety;

On page 7, line 26 by deleting "***annually.***";

On page 8, line 2 after "***quarterly***" by deleting "***and its***";

On page 8, line 3 by deleting "***meetings shall be public meetings***";

On page 8, by deleting lines 4 to 27 in their entirety;

On page 9, by deleting lines 1 to 27 in their entirety;

On page 10, by deleting lines 1 to 27 in their entirety;

By deleting all text from page 11, line 1 to page 16, line 26.

Floor Amendment No. 3 to **HB 697**, by Representative Damron:

On page 6, line 20, after "***created***" by inserting "***and shall be attached to the Personnel Cabinet for administrative purposes only. The purpose of the commission shall be***"; and

On page 6, line 21, after "***employees***" by inserting "***.***" and by deleting "***and***" and inserting in lieu thereof "***The commission***"; and

On page 6, line 22, after "***2000***" by inserting "***, and shall establish in cooperation with the Personnel Cabinet a timeline and procedure for the orderly transfer from the Personnel Cabinet to the commission of those functions identified as necessary to fulfill the responsibilities of the commission as specified in this section***"; and

On page 6, line 26, by deleting "***ten (10)***" and inserting "***nine (9)***"; and

On page 7, line 1, by deleting "***the Auditor of***"; and

On page 7, line 2, by deleting "***Public Accounts who shall be a nonvoting member,***"; and

On page 7, line 3, by deleting "***who shall be a nonvoting member***"; and

On page 7, line 23, by deleting all words on the line after "***(5)***"; and

On page 7, by deleting lines 24 and 25 in their entirety; and

On page 7, line 26, by deleting "***annually.***"; and

On page 8, line 16, after "***staff***" by inserting "***as allowed by budgetary limitations***"; and

On page 10, line 15, after "***state***" by adding "***. The difference between the seventy-five percent (75%) state contribution amount and the one hundred percent (100%) state contribution amount under this subsection and any funds in flexible spending accounts that remain after all reimbursements have been processed shall be transferred to the credit of the commission's appropriation account***"; and

On page 10, line 21, by deleting "***heath***" and inserting "***health***"; and

On page 10, line 24, after "***group***" by inserting "***. The assessment amounts not required to meet current costs shall be transferred to the credit of the commission's appropriation account***"; and

On page 10, after line 27, by adding:

"***(9) The commission may use up to fifteen percent (15%) of the funds that were transferred to the credit of the commission's appropriation account under subsections (6) and (7) of this section for operations of the commission and the remainder of the funds shall be used for the state employees health benefits program.***".

Floor Amendment No. 4 to **HB 697**, by Representative Damron:

On page 2, line 22, before "42.800" by inserting "***42.805***" and by placing brackets around and striking through "42.800"; and

On page 3, line 9, before "42.800" by inserting "***42.805***" and by placing brackets around and striking through "42.800"; and

On page 3, line 16, before "42.800" by inserting "***42.805***" and by placing brackets around and striking through "42.800"; and

On page 4, line 20, before "42.800" by inserting "***42.805***" and by placing brackets around and striking through "42.800";

and

On page 16, after line 19, by inserting:

"Section 8. KRS 18A.220 is amended to read as follows:

The secretary of the Finance and Administration Cabinet is authorized to perform all acts necessary or advisable for the purpose of contracting for and maintaining insurance under the provisions of KRS 18A.205 to 18A.225[~~and KRS 42.800 to 42.825~~].

Section 9. KRS 18A.2288 is amended to read as follows:

(1) If a member of one (1) of the state-administered retirement systems changes health insurance carriers from one (1) of the optional plans to the self-funded plan created pursuant to KRS ***42.805*** [~~42.800~~] to 42.825 and the member has satisfied the pre-existing condition limitation in the optional plan, the member shall be covered in the self-funded plan without any limitation for pre-existing conditions.

(2) A member of the County Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer and who has satisfied any pre-existing condition limitation required by the group, shall, upon retirement and upon the member's application, receive coverage in the self-funded plan created pursuant to KRS ***42.805*** [~~42.800~~] to 42.825 without any limitation for pre-existing conditions. This subsection also applies to a member of the Kentucky Employees Retirement System who is a member of a health insurance group plan sponsored by the member's employer, but not provided for in this chapter, who has satisfied any pre-existing condition limitation required by the group.

Section 10. KRS 42.0245 is amended to read as follows:

(1) There is established within the Department for Administration in the Finance and Administration Cabinet the Division of Risk Management. The division shall be headed by a director who shall be appointed by the secretary of the Finance and Administration Cabinet subject to the approval of the Governor.

(2) The Division of Risk Management shall:

(a) Oversee and assist the management of the state fire and tornado insurance fund established in KRS Chapter 56;

(b) Develop and manage programs of risk assessment and insurance for the protection of state property not covered by the state fire and tornado insurance fund;

(c) Advise the secretary of the Finance and Administration Cabinet on the fiscal management of programs relating to life insurance, workers' compensation, and health care benefits for state employees, including, but not limited to, assisting and monitoring the development of a program of health care self-insurance for state employees as authorized by KRS ***42.805*** [~~42.800~~] to 42.825;

(d) Serve as the central clearinghouse for coordinating and evaluating existing and new risk management programs within all state agencies;

(e) Develop financing techniques for risk protection; and

(f) Develop and implement other risk management, insurance, and self-insurance programs or other functions and duties as the secretary of the Finance and Administration Cabinet may direct the office to undertake and implement within the general statutory authority and control of the Finance and Administration Cabinet over state property and fiscal affairs of the executive branch of state government, including, but not limited to, those areas pertaining to tort and contractual liability, fidelity, and property risks.

(3) Nothing in this section shall be construed or interpreted as affecting the operation of the employee benefit programs generally administered by the Division of Employee Benefits within the Personnel Cabinet and of the State Risk and Insurance Services programs administered by the Department of Insurance. However, both of those departments shall coordinate the operation of life insurance, workers' compensation, health care benefit programs, and other self-insured programs with the Division of Risk Management.

(4) All cabinets, departments, boards, commissions, and other state agencies shall provide to the Division of Risk Management the technical advice and other assistance the Division of Risk Management or the secretary of the Finance and Administration Cabinet shall request in the performance of the functions of the division as described in this section.

(5) The secretary of the Finance and Administration Cabinet shall have the power and authority to promulgate administrative regulations pursuant to KRS Chapter 13A for purposes of implementing a risk management program for the executive branch of state government. Any administrative regulations promulgated by the secretary shall be administered by the Division of Risk Management.

Section 11. KRS 45A.022 is amended to read as follows:

(1) This chapter shall apply to all insurance contracts purchased by the Commonwealth, except where the commissioner of insurance determines, with the concurrence of the secretary of Finance and Administration Cabinet, that:

(a) An emergency exists;

(b) Competition is not feasible; or

(c) The annual premium is less than ten thousand dollars ($10,000).

(2) Notwithstanding subsection (1) of this section, the health insurance contract or contracts for state employees as authorized by KRS 18A.225 and KRS ***42.805*** ~~[42.800]~~ to 42.825 shall be subject to the provisions of KRS 45A.080, 45A.085 and 45A.090.

Section 12. KRS 91A.080 is amended to read as follows:

(1) The legislative body of each city, county, or urban-county government which elects to impose and collect license fees or taxes upon insurance companies for the privilege of engaging in the business of insurance may enact or change its license fee or rate of tax to be effective July 1 of each year on a prospective basis only and shall file with the commissioner of insurance at least one hundred (100) days prior to the effective date, a copy of all ordinances and amendments which impose any such license fee or tax. No less than eighty-five (85) days prior to the effective date, the commissioner of insurance shall promptly notify each insurance company engaged in the business of insurance in the Commonwealth of those cities, county, or urban-county governments which have elected to impose the license fees or taxes and the current amount of the license fee or rate of tax.

(2) Any license fee or tax imposed by a city, county, or urban-county government upon an insurance company with respect to life insurance policies, may be based upon the first year's premiums, and if so based, shall be applied to the amount of the premiums actually collected within each calendar quarter upon the lives of persons residing within the corporate limits of the city, county, or urban-county government.

(3) Any license fee or tax imposed by a city, county, or urban-county government upon any insurance company with respect to any policy which is not a life insurance policy shall be based upon the premiums actually collected by the company within each calendar quarter on risks located within the corporate limits of the city, county, or urban-county government on those classes of business which the company is authorized to transact, less all premiums returned to policyholders. In determining the amount of license fee or tax to be collected and to be paid to the city, county, or urban-county government, the insurance company shall use the tax rate effective on the first day of the policy term. When an insurance company collects a premium as a result of a change in the policy during the policy term, the tax rate used shall be the rate in effect on the effective date of the policy change. With respect to premiums returned to policyholders, the license fee or tax shall be returned by the insurance company to the policyholder pro rata on the unexpired amount of the premium at the same rate at which it was collected and shall be taken as a credit by the insurance company on its next quarterly report to the city, county, or urban-county government. Any license fee or tax imposed upon premium receipts shall not include premiums received for insuring employers against liability for personal injuries to their employees, or the death of their employees, caused thereby, under the provisions of the Workers' Compensation Act.

(4) The Department of Insurance shall, by administrative regulation, provide for a reasonable collection fee to be retained by the insurance company or its agent as compensation for collecting the tax, except that the collection fee shall not be more than fifteen percent (15%) of the fee or tax collected and remitted to the city, county or urban-county government or two percent (2%) of the premiums subject to the tax, whichever is less. To facilitate computation, collection, and remittance of the fee or tax and collection fee provided in this section, the fees or taxes set out in subsection (1), (2), or (3) of this section, together with the collection fee in this section, may be rounded off to the nearest dollar amount.

(5) Pursuant to KRS 304.3-270, if any other state retaliates against any Kentucky domiciliary insurer because of the requirements of this section, the commissioner of insurance shall impose an equal tax upon the premiums written in this state by insurers domiciled in the other state.

(6) Accounting and reporting procedures for collection and reporting of the fees or taxes and the collection fee herein provided shall be determined by administrative regulations promulgated by the Department of Insurance.

(7) Upon written request of the legislative body of any city, county, or urban-county government, at the expense of the requesting city, county, or urban-county government, which shall be paid in advance by the city, county, or urban-county government to the Department of Insurance, the Department of Insurance shall examine, or cause to be examined by contract with qualified auditors, the books or records of the insurance companies or agents subject to the fee or tax to determine whether the fee or tax is being properly collected and remitted, and the findings of the examination shall be reported to the city, county, or urban-county government. Willful failure to properly collect and remit the fee or tax imposed by a city, county, or urban-county government pursuant to the authority granted by this section shall constitute grounds for the revocation of the license issued to an insurance company or agent under the provisions of KRS Chapter 304.

(8) The license fees or taxes provided for by subsections (2) and (3) of this section shall be due thirty (30) days after the end of each calendar quarter. Annually, by March 31, each insurer shall furnish each city, county, or urban-county government, to which the tax or fee is remitted, with a breakdown of all collections in the preceding calendar year for the following categories of insurance:

(a) Casualty;

(b) Automobile;

(c) Inland marine;

(d) Fire and allied perils;

(e) Health; and

(f) Life.

(9) Any license fee or tax not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until paid. Such interest payable to the city, county, or urban-county government is separate of penalties provided for in subsection (7) of this section. No city, county, or urban-county government may impose any penalties other than those provided for in this subsection.

(10) No license fee or tax imposed under this section shall apply to premiums received on policies of group health insurance provided for state employees under KRS 18A.225 and KRS ***42.805*** ~~[42.800]~~ to 42.825.

(11) No county may impose the tax authorized by this section upon the premiums received on policies issued to public service companies which pay ad valorem taxes.

(12) Insurance companies which pay license fees or taxes pursuant to this section shall credit city license fees or taxes against the same license fees or taxes levied by the county, when the license fees or taxes are levied by the county on or after July 13, 1990.

Section 13. KRS 136.330 is amended to read as follows:

(1) Every life insurance company doing business in this state, other than fraternal assessment life insurance companies, shall, by March 1 of each year, return to the Revenue Cabinet a statement under oath of all premium receipts on business done in this state during the preceding calendar year or since the last return was made. "Premium receipts" includes single premiums, annuity premiums, premiums received for original insurance, premiums received for renewal, revival or reinstatement of the policies, annual and periodical premiums, dividends applied for premiums and additions, and all other premium payments received on policies that have been written in this state, or on the lives of residents of this state, or out of this state on business done in this state, less returned premiums. No deduction shall be made for dividends on life insurance or annuity policies, but dividends on accident and health insurance policies may be deducted. Premium receipts shall not include annuity premiums or annuity dividends beginning in calendar year 2000.

(2) (a) An annual tax on premium receipts shall be imposed against every company making a return under this subsection for calendar years beginning before 2000 at a rate of two dollars ($2) upon each one hundred dollars ($100) of premium receipts.

(b) An annual tax on premium receipts shall be imposed against every company making an election pursuant to KRS 136.335 to be taxed under this section, and every company making a return under this section, for calendar years beginning in 2000 as follows:

1. For calendar year 2000, one dollar and ninety cents ($1.90) upon each one hundred dollars ($100) of premium receipts;
2. For calendar year 2001, one dollar and eighty cents ($1.80) upon each one hundred dollars ($100) of premium receipts;
3. For calendar year 2002, one dollar and seventy cents ($1.70) upon each one hundred dollars ($100) of premium receipts;
4. For calendar year 2003, one dollar and sixty cents ($1.60) upon each one hundred dollars ($100) of premium receipts; and
5. For calendar year 2004 and each calendar year thereafter, one dollar and fifty cents ($1.50) on each one hundred dollars ($100) of premium receipts.

(3) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and KRS ***42.805*** ~~[42.800]~~ to 42.825 shall not be subject to taxation under this section.

Section 14. KRS 136.340 is amended to read as follows:

(1) Every stock insurance company, other than life, doing business in this state shall, on or before the first day of March of each year, return to the Revenue Cabinet a statement under oath of all amounts paid to the company or its representative, whether designated as premiums or otherwise, for insurance or services incident thereto, on property or risks in this state during the preceding calendar year or since the last returns were made, including amounts received for reinsurance on Kentucky risks from unauthorized companies, and shall at the same time pay a tax of two dollars ($2) upon each one hundred dollars ($100) of such amounts paid to the company, less amounts returned on canceled policies and policies not taken.

(2) The health insurance contract or contracts for state employees as authorized by KRS 18A.225 and KRS ***42.805*** ~~[42.800]~~ to 42.825 shall not be subject to taxation under this section.

Section 15. KRS 136.350 is amended to read as follows:

(1) All mutual companies other than life doing business under this law shall pay to the Revenue Cabinet on or before the first day of March in each year, a tax of two percent (2%) of all amounts paid to the company or its representative, whether

designated as premiums or otherwise, for insurance or services incident thereto, including amounts paid for membership or policy dues or fees, on property or risks in this state during the preceding calendar year, including amounts received for reinsurance on Kentucky risks from unauthorized companies.

(2) In addition to the foregoing tax, mutual insurance companies and Lloyd's insurers shall pay an annual tax as prescribed for stock insurance companies by KRS 136.360 and for like purposes.

(3) In computing premiums upon which tax is to be paid there shall be deducted, in both direct and reinsurance business, return premiums on canceled policies and policies not taken, and dividends paid or credited to policyholders.

(4) The provisions of this section shall not apply to domestic mutual companies, cooperative or assessment fire insurance companies.

(5) The health insurance contract or contracts for state employees as authorized by KRS 18A.225, 18A.228, and KRS ***42.805*** ~~[42.800]~~ to 42.825 shall not be subject to taxation under this section.

Section 16. KRS 205.640 is amended to read as follows:

(1) For purposes of this section, "hospital" includes all hospitals licensed in this state to provide acute care, psychiatric care, and rehabilitative services.

(2) The commissioner of Medicaid services shall adopt a disproportionate share program consistent with the requirements of Title XIX of the Social Security Act which shall include to the extent possible, but not limited to, the provisions of this section.

(3) The "Medical Assistance Revolving Trust Fund" (MART) shall be established in the State Treasury and all provider tax revenues collected pursuant to KRS 142.301 to 142.359 shall be deposited in the State Treasury to the credit of the fund. All investment earnings of the fund shall be credited to the fund. Provider tax revenues collected in accordance with KRS 142.301 to 142.359 shall be used to fund the provisions of KRS 216.2920 to 216.2929 and to supplement the medical assistance-related general fund appropriations for fiscal year 1994 and subsequent fiscal years. Notwithstanding the provisions of KRS 48.500 and 48.600, the MART fund shall be exempt from any state budget reduction acts.

(4) The "Medical Assistance Indigent Trust Fund" (MAIT) shall be established in the State Treasury for the purpose of receiving any funds transferred from the MART fund or from federal funds for the operation of the disproportionate share program established by the commissioner of Medicaid services in accordance with the provisions of subsection (2) of this section. All investment earnings of the fund shall be credited to the fund. Notwithstanding the provisions of KRS 48.500 and 48.600, the MAIT fund shall be exempt from any state budget reduction acts.

(5) An amount, necessary to result in a total fund of ninety-three million dollars ($93,000,000) for fiscal year 1998-99, and ninety-four million dollars ($94,000,000) for fiscal year 1999-2000 including provider tax revenues and federal matching funds, to the extent possible without exceeding Kentucky's federal disproportionate share hospital cap, shall be transferred from the MART fund or from federal funds to the MAIT fund for the purpose of funding the disproportionate share program established by the commissioner of Medicaid services.

   (a) The MAIT fund shall be used to compensate hospitals qualifying for the disproportionate share program for service provided by the hospitals to Medicaid recipients beyond the covered days and individuals and families with total annual incomes and resources up to one hundred fifty percent (150%) of the federal poverty level, as determined by the hospital pursuant to administrative regulations promulgated by the Cabinet for Health Services in accordance with this section.

   (b) An individual hospital shall receive distributions from the MAIT fund for indigent care provided by that hospital if the care meets the guidelines established in paragraphs (a) and (b) of this subsection and is documented to the Department for Medicaid Services, as reimbursed at the hospital's Medicaid rate; provided, however, that the Medicaid rate shall not exceed the Medicare upper limit.

   (c) Distributions to hospitals from the MAIT fund shall be made on a quarterly basis. One-fourth (1/4) of each share established pursuant to paragraphs (a) and (b) of this subsection shall be the maximum amount available for distribution at the close of each quarter. The amount of distributions to each hospital shall be determined as follows:

      1. Hospitals shall report care provided to Medicaid recipients beyond the covered days and to individuals and families with total annual incomes and resources up to one hundred fifty percent (150%) of the federal poverty level, including care rendered to indigent persons age twenty-two (22) to sixty-four (64) in a psychiatric hospital to the Cabinet for Health Services on a quarterly basis. The first report shall be due on or before October 20, 1994, and shall document care provided for the quarter beginning July 1, and ending September 30. Subsequent reports shall be due on or before January 20, April 20, July 20, and October 20, of each year thereafter.

      2. Within sixty (60) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Health Services, Department for Medicaid Services shall review all reports filed and shall determine the maximum compensation authorized for each hospital filing reports, with payment for

documented qualifying services provided at the hospital's Medicaid rate as established annually by the Department of Medicaid Services.

3. Within ninety (90) days of the due date of the reports established in subparagraph 1. of this paragraph, the Cabinet for Health Services, Department for Medicaid Services shall remit to each hospital the amount determined to be due pursuant to the provisions of subparagraph 2. of this paragraph. If the total amount due all hospitals entitled to compensation in any quarter exceeds the funds available in any quarter, the distribution received by each hospital shall be proportionately reduced. If the total amount due all hospitals entitled to compensation in any quarter is less than the funds available for distribution in that quarter, the excess funds may be carried forward to satisfy future claims.

(d) For purposes of this section, the Medicaid rate for hospitals with less than two hundred (200) licensed acute care beds means the cost of providing indigent care services as calculated by the department by applying each hospital's cost-to-charge ratio to allowable indigent charges. By July 1 of each year, the Department for Medicaid Services shall calculate the cost-to-charge ratio for each hospital by dividing the hospital's total allowable operating expenses by the hospital's total gross patient charges.

(6) Hospitals receiving reimbursement from the MAIT fund shall not bill patients for services provided to patients not eligible for medical assistance with family incomes up to one hundred fifty percent (150%) of the federal poverty level.

(7) The secretary of the Cabinet for Health Services shall promulgate administrative regulations necessary, pursuant to KRS Chapter 13A, for the administration and implementation of this section.

(8) All hospitals receiving reimbursement from the MAIT fund shall:

(a) Display prominently a sign which reads as follows: "This hospital will accept patients regardless of race, creed, ethnic background, or ability to pay.";

(b) Accept benefits of state health insurance coverage described in KRS 18A.229 and KRS ***42.805*** ~~[42.800]~~ to 42.825;

(c) Provide to Medicaid recipients any additional days of coverage per hospital stay, based on medical necessity determined in the usual manner, without responsibility for payment for such days of care accruing to the patient or the Medicaid program; and

(d) Collect and report to the department data on the number of indigent patient days provided pursuant to this section, including additional days of coverage for Medicaid recipients. The cabinet shall annually, no later than July 1, compile a report for the Governor and the Legislative Research Commission on the implementation of this section.

Section 17. The following KRS section is repealed:

42.800 Kentucky Kare Health Insurance Authority -- Board of directors -- Executive director -- Annual audit."; and

On page 16, line 20, by deleting "8" and inserting "18".

Floor Amendment No. 2 to **SB 62**, by Representative Simpson:

On page 1 line 8 after the word "***Kentucky***" by inserting "***. A sheriff may require his or her deputies to reside in the county in which they serve***".

Motions, Petitions and Communications (Continued)

The following members filed requests to have their names added as co-sponsors to Bills and Resolutions under rules previously suspended:

HB 507:	Representative Bratcher
HB 732:	Representative Lee
HB 746:	Representative Feeley
HB 775:	Representatives Ausmus, Bruce, Childers, L. Clark, Colter, Cornett, Gray, Hoffman, Jenkins, Jordan, Nesler, Palmer, Stacy, Stumbo, J. Turner
HB 805:	Representative Ballard
HB 806:	Representative Ballard
HB 823:	Representatives Adkins, Cornett, Weaver, Webb

HB 826:	Representatives Anderson, Bratcher, Burch, D. Butler, Cherry, P. Clark, Johns, Miller, Nesler, T. Turner, Wayne
HB 850:	Representative Bruce
HB 852:	Representative Siler
HB 869:	Representative Vincent
HB 878:	Representatives P. Clark, Webb
HB 911:	Representative R. Adams
HB 913:	Representative Bather
HB 958:	Representatives Alexander, Rader, Palumbo, Stewart
HB 960:	Representative Alexander
HB 992:	Representative Branham
HB 1000:	Representative Palmer
HJR 135:	Representative Cox

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill:

HB 986: Representative Gray

Announcements

The following meeting was announced:

Tourism and Energy, upon adjournment, March 2, 2000

The following meeting was canceled:

Budget Review Subcommittee on Transportation, March 2, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 2, 2000.

The motion that the House adjourn until 2:00 p.m., March 2, 2000, was adopted by voice vote.

MARCH 2, 2000

THIRTY-NINTH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Jana Hall, First Presbyterian Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 1, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Senate Message

Announcing passage of **SB 111, SB 192, SB 203, SB 220, SB 221, SB 225, SB 254, SB 255, SB 265, SB 272, HB 208, HB 253, HB 265, HB 273, HB 302, HB 326, HB 340, HCR 10, HCR 13, HCR 28,** and **HCR 30**. (Time: 2:15 p.m.)

Representative Bowling moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Bowling moved the adoption of the following **Legislative Citation No. 81**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Mardi Montgomery upon being named Kentucky's Teacher of the Year 2000 in ardent recognition of the tremendous dedication and skill with which she has enthusiastically taught the students of Boyle County High School. A graduate of Somerset Community College, Centre College and Eastern Kentucky University, this esteemed English teacher has earned the highest regard of her peers for the true concern and compassion that she has consistently demonstrated to both her students and colleagues. Also a member of the Kentucky and National Councils of Teachers of English and Language Arts, Ms. Montgomery has served as an outstanding asset to her profession and has consistently exhibited a forthright commitment to promoting excellence in education. Inasmuch as this distinguished educator has labored with untiring diligence while shaping the lives of the youth of this Commonwealth, the members of this august body are delighted to join with Representative John W.D. Bowling in commending Mardi Montgomery for this notable achievement and in extending best wishes for continued success and good fortune. Done in Frankfort, this second day of March, in the year of our Lord, two thousand.

Legislative Citation No. 81 was adopted without objection.

Representative Crall moved that the rules be suspended to grant floor privileges to constituents. Agreed.

Representative Miller moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Miller moved the adoption of the following **Legislative Citation No. 80**.

The House of Representatives of the Commonwealth of Kentucky hereby joins in recognizing and honoring Read Across America 2000 a national day of reading sponsored by the National Education Association, the Kentucky Education Association and many of the nation's leading literacy and youth groups. Thousands of Kentucky children are on this day, March 2, celebrating the 92nd birthday of Dr. Seuss, the prolific artist and author of many children's books, including How the Grinch Stole Christmas and The Cat in the Hat, by participating in this most worthwhile Read Across America experience. Known throughout the world for his artwork and for the nonsensical, magical realm that he created through both his paintings and his children's stories, Dr. Seuss drew countless children into a rich and vibrant world of characters and stories which carried valuable moral and ethical messages about a range of topics, including nationalism and environmentalism. Inasmuch as the legacy of this brilliant artist is highly deserving of celebration, and this day which honors reading and learning is equally cause for celebration, the members of this august body are delighted to join Representative Charles Miller in support of Read Across America and in expressing the sincere hope that every child in this great Commonwealth is read to on this day. Done in Frankfort, this second day of March, in the year two thousand.

Legislative Citation No. 80 was adopted without objection.

Representative Reinhardt moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Reinhardt moved the adoption of the following **Legislative Citation No. 79**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors the members of the Kentucky All-Star Gymnastics Team from Five Star Gym, for outstanding athletic performance and their contributions to winning the overall competition in a recent tournament against the Ohio All-Stars. These skillful gymnasts, who qualified as members of this team by winning top honors in their respective age groups, have brought great honor and esteem to themselves and their community and have demonstrated remarkable talent, athletic ability and a laudable commitment to excelling in the sport of gymnastics by the effort put forth in this worthwhile endeavor. The members of this honorable body are pleased to join Representative Jon David Reinhardt in commending these young gymnasts from Five Star Gym as members of the Kentucky All-Star Gymnastics Team for their role in attaining this exceptional achievement,-in welcoming them to the Chambers of the House of Representatives to witness a day in the 2000 Regular Session and in extending best wishes for continued success in all future athletic endeavors. Done in Frankfort, this second day of March, in the year two thousand.

Legislative Citation No. 79 was adopted without objection.

Representative Westrom moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Westrom moved the adoption of the following **Legislative Citation No. 78**.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes The Kentucky Elite All-Stars upon their visit to the 2000 Session of the Kentucky General Assembly, and recognizes them for demonstrating phenomenal enthusiasm and hard work while training at the Kentucky Elite Training Center, one of the premier All-Star cheerleading programs in the nation, resulting in this outstanding group of talented individuals winning three national championship trophies at the World Cheerleading Association National Championships. The Large Coed All-Star squad was the first team created and the first to compete on both the state and national levels. Competing at the high school level, this squad, coached by former University of Kentucky cheerleaders, Brian Elza and Doug Stithem, placed in the top five in every competition and captured the WCA National Championship in Nashville, Tennessee. Additionally, the Large Senior All-Star squad, coached by former Morehead State University cheerleader, Craig Monte, and the Junior All-Star squad, coached by Brian Elza and Craig Monte, have also claimed national championships. Inasmuch as the talented and enthusiastic members of five All Star Cheerleading squads from the Kentucky Elite Training Center will soon travel to Orlando, Florida, to compete in the UCA National All-Star Cheerleading Championship, the entire membership is pleased to join Representative Susan Westrom in extending sincerest congratulations to the Kentucky Elite All-Stars for their notable achievements and in expressing sincere best wishes for their continued success. Done in Frankfort, this second day of March, in the year two thousand.

Legislative Citation No. 78 was adopted without objection.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolutions:

Agricultural and Small Business: **HB 979, HB 989**

Appropriations and Revenue: **HB 964, HB 967, HB 981, HB 996, HB 1001, HB 1002, HB 1018, HB 1029, HB 1031, HCR 148**

Banking and Insurance: **HB 972, HB 997, HB 998, HB 1016**

Economic Development: **HB 983, HCR 146**

Education: **HB 960, HB 970, HB 971, HB 975, HB 976, HB 984, HB 1004, HJR 141, SB 240**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 963, HB 965, HB 1007**

Health and Welfare: **HB 969, HB 980, HB 985, HB 1003, HB 1009, HB 1012, HB 1030, SB 51**

Judiciary: **HB 987, HB 1005, HB 1006, HB 1008, HB 1017, HB 1019, HB 1022, HB 1023, HB 1025, HB 1027, HB 1028, SB 167, SB 188, SB 189, SB 198, SB 224, SB 256**

Labor and Industry: **HB 992, HB 993**

Licensing and Occupations: **HB 1014**

Local Government: **HB 961, HB 994, HB 995, HB 999, HB 1000, HB 1010, HB 1024, HCR 147, SB 159, SB 160**

Natural Resources and Environment: **HB 966, HB 990, HB 1013, HB 1021, HJR 143**

Seniors, Military Affairs, and Public Safety: **HB 962, HB 1020, SJR 76**

State Government: **HB 977, HB 986, HB 991, HB 1011, HB 1015, HB 1026, HB 1032, HJR 138, HCR 139, HR 140, HJR 142, HJR 144, HJR 145, SB 233**

Tourism, Development, and Energy: **HB 982, SB 172**

Transportation: **HB 968, HB 973, HB 974, HB 978, HB 988, HCR 136**

House Floor: **HR 137**

Report of Committees

The Committee on Local Government reported **HB 636, HB 742,** and **HB 829** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 636, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.360 is amended to read as follows:

Words and phrases, wherever used in KRS 67A.360 to 67A.690, unless a different meaning is clearly indicated by the context, shall have the following meanings:

(1) "Fund" shall mean the "Policemen's and Firefighter's Retirement Fund of the .... Urban-County Government";

(2) "Government" shall mean the governmental unit of any urban-county government in the Commonwealth of Kentucky, including the governmental unit of any former urban-county government which changes its form of government, class or other status;

(3) "Department" shall mean the police department or the fire department of a government;

(4) "Board" shall mean the board of trustees provided in KRS 67A.360 to 67A.690 as the agency responsible for the direction and operation of the affairs and business of the fund. The board shall hold title to all assets of the fund;

(5) "Member" shall mean any member of the police or fire department who is included in the membership of the fund;

(6) "Service" shall mean actual employment in a department of a government, or a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government, for salary or compensation, or service otherwise creditable as herein provided;

(7) "Prior service" shall mean service rendered prior to the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(8) "Membership service" shall mean service rendered on or after the date of establishment of the fund or the fund of a city existing within the boundaries of the government immediately prior to the establishment of an urban-county government;

(9) "Total service" shall mean prior service, membership service, and ***service credit purchased by a member as provided in Section 2 of this Act***~~[military service]~~;

(10) "Regular interest" shall mean such rate of interest as shall be fixed by the board, provided that for the first five (5) years of operation of the fund the rate shall be not less than three percent (3%) per annum, compounded annually;

(11) "Occupational disability" shall mean disability due to occupational causes, including but not limited to injury or disease. The presumption of contracting disease "while on active duty as a result of strain or the inhalation of noxious fumes, poisons or gases" created by KRS 79.080 shall be a presumption of "occupational disability" hereunder;

(12) "Occupational death" shall mean death due to occupational causes, including, but not limited to, injury or disease;

(13) "Average salary" shall mean the highest average annual salary of the member for any three (3) consecutive years of service within the total service of the member, including employee contributions picked up after August 1, 1982 pursuant to KRS 67A.510(2);

(14) The masculine pronoun, wherever used, shall include the feminine pronoun; and widow shall include widower;

(15) The fiscal year of the fund shall date from July 1 of any year to June 30 of the next year following;

(16) "Total disability" shall mean a disability which substantially precludes a person from performing with reasonable regularity the substantial and material parts of any gainful work or occupation in the service of the department that he would be competent to perform were it not for the fact that the impairment is founded upon conditions which render it reasonably certain that it will continue indefinitely;

(17) "Minor child" includes, as applicable, a child under the age of twenty-three (23) still engaged in full-time education;~~[and]~~

(18) "Mayor," "commissioner of finance," "commissioner of public safety," and "director of ***human resources***~~[personnel]~~" shall mean the persons holding the office or job most closely resembling the ordinary meaning of such terms, in the event that a government does not have an office so described***; and***

(19) "Salary" means the member's actual base rate of pay and any other compensation that the government chooses to include. "Salary" may include longevity pay, training incentive pay, and hazardous duty and special duty pay but shall exclude uniform and equipment allowances, uniform maintenance allowances, education incentive pay, annual payments for excess accumulated sick leave credit, compensation for overtime work, except for scheduled overtime of fire department members, and any other compensation excluded by the government.

Section 2. KRS 67A.402 is amended to read as follows:

(1) Any member who ***has at least five (5) years of total service credit as a member of the fund may purchase service credit, that is not otherwise purchasable, for up to a maximum of four (4) years of service. The member shall not be entitled to purchase any service credit for which he has been given credit in another defined benefit retirement fund; however, the member may purchase government service credit by transferring funds directly from another public defined benefit retirement plan if the member provides proof that he is not eligible for a retirement benefit from the other public defined benefit retirement fund***~~[was honorably discharged from any branch of the armed services of the United States may purchase service credit for up to a maximum of four (4) years of active military service within five (5) years from July 15, 1990, or from the date he becomes a member of the fund, whichever occurs later]~~.

(2) A member who purchases service credit~~[for military service]~~ shall ***file an application with the board within the five (5) year period. The member shall*** pay to the fund~~[in a lump sum one hundred percent (100%) of]~~ an amount which shall be determined by actuarial method consistent with the methods prescribed for determining the purchase of prior service credit ***which shall be the principal***.

(3) Payment of the principal shall be made in a lump sum or payment of the principal and interest may be made by installments. Interest, at the annual rate of return on investments of the fund for the preceding year, shall be established by the commissioner of finance on or before August 31 of each year and shall be based on financial statements of the fund for the year ending June 30, except that the interest shall not be less than three percent (3%). Interest shall be added to the principal for the time period for which installments are to be made.

(4) If payments are made by installment, the cost of purchasing the service credit shall be recalculated annually based upon the member's current salary, the interest rate established by the commissioner of finance, and other factors required by the actuarial method. The member's payments shall be adjusted annually to reflect the annual recalculation of the cost of purchasing service credit. Installment payments shall be consecutive and the total number of monthly installments shall not be less than twelve (12) or more than two hundred forty (240). The member shall pay the installments by payroll deduction.

(5) Payments shall not be considered accumulated contributions of the member and shall not be picked up by the urban-county government. No employer contribution shall be paid on the installments. The board shall determine how much of the total cost represents payment for one (1) quarter of the service to be purchased and the member shall receive service credit for one (1) quarter of the service each time this amount is paid.

(6) If the member dies, retires, or ceases to be a member of the fund before he has made all installment payments for the purchase of service credit, the fund shall refund to the member, his qualified surviving spouse, or his estate, the portion of any payment that does not represent a full quarter of service.

(7) A member who does not repay a refund of contributions, as provided in subsection (3) of Section 6 of this Act, shall be entitled to purchase service credit for prior membership service.

(8) The member may cancel a purchase obligation at any time, but once canceled, a member shall have forever forfeited, waived, and relinquished the right to purchase service credit.

Section 3. KRS 67A.430 is amended to read as follows:

(1) The rate of retirement annuity shall be two and one-half percent (2.5%) of average salary, as defined in KRS 67A.360(13), for each year of total service~~[up to and including thirty (30) years, subject to a maximum of seventy-five percent (75%) of average salary]~~. Fractional periods of service shall be considered in the calculation of such annuities according to the aforesaid rate. Provided, however, that no retiree, or his surviving widow, whether he retired before or after June 16, 1972, under this section shall receive a pension of less than $100 a month and when Social Security benefits are increased the minimum shall be increased by a like amount, provided that the increase shall not exceed five percent (5%).

(2) Any retiree or surviving spouse who as of January 1, 1996, is receiving a monthly annuity of less than the amount established as the poverty guideline for a single person by the United States Department of Commerce shall have the pension increased to the amount established as the poverty guideline for calendar year 1996, and the board may increase this annuity as provided by KRS 67A.690(1).

Section 4. KRS 67A.460 is amended to read as follows:

(1) If a total and permanent occupational disability occurs, the member shall receive an annuity calculated pursuant to subsection (2) of this section. This benefit shall begin at the time his salary ceases, and shall be paid during his entire lifetime. At the member's death, his eligible widow, if any, shall receive the benefits as provided under KRS 67A.492, and his minor children, if any, shall receive benefits as provided under KRS 67A.440.

(2) The minimum annuity rate for a total and permanent occupational disability shall be sixty percent (60%) of the member's last rate of salary. The minimum rate shall be increased by one half (1/2) of the amount by which the member's percentage of disability exceeds twenty percent (20%), but this increase shall be not more than fifteen percent (15%) of the member's last rate of salary and the member's total annuity shall not be greater than seventy-five percent (75%) of his last rate of salary.

(3) The member's percentage of disability shall be the average of the impairment rating determined by two (2) physicians selected by the board under KRS 67A.480, using the latest edition of the American Medical Association's "Guides to the Evaluation of Permanent Impairment".

(4) If a member is eligible for a service retirement annuity under KRS 67A.410(1) or (2) and the amount of his service retirement annuity would exceed the amount of his total and permanent occupational disability annuity, as determined by the board under this section, then the member may elect to receive an additional service retirement annuity payment equal to the amount by which his service retirement annuity would have exceeded the amount of his total and permanent occupational disability annuity, in addition to his disability annuity, by filing with the board the application required by KRS 67A.410. A member who is eligible for a certificate entitling him to a service retirement annuity under KRS 67A.410(2) shall not be eligible to receive this additional service retirement annuity payment until he attains the age of forty-six (46).

Section 5. KRS 67A.492 is amended to read as follows:

(1) Upon the death of a retired member, his surviving widow shall receive an annuity equal to sixty percent (60%) of the member's final annuity, or of the member's final rate of pay, whichever is greater. The surviving widow must have been married to the member for at least ***one (1) year prior to the member's death or*** six (6) months prior to ***the member's*** retirement in order to be eligible for the benefits provided in this section.

(2) Any member who retires on July 15, 1990, or thereafter, shall have the option at retirement to purchase an increased annuity allowance for his surviving widow. The amount of any such optional survivorship allowance shall be actuarially equivalent to the amount of retirement allowance otherwise payable to him. The member may elect either of two (2) options:

  (a) Survivorship seventy-five percent (75%). The member may elect to receive a decreased retirement allowance during his lifetime and have seventy-five percent (75%) of such retirement allowance continue after his death to his eligible widow until her death or remarriage.

  (b) Survivorship one hundred percent (100%). The member may elect to receive a decreased retirement allowance during his lifetime and have such retirement allowance continued at the same rate after his death to his eligible widow until her death or remarriage.

Section 6. KRS 67A.500 is amended to read as follows:

(1) Upon withdrawal from service prior to retirement, a member shall be entitled to receive a refund of the amount of contributions made by the member or picked up by the urban-county government pursuant to KRS 67A.510(2) after the date of establishment, without interest. Payments of picked up employee contributions shall be subject to state and federal tax as appropriate.

(2) Any member receiving a refund of contributions shall thereby ipso facto forfeit, waive, and relinquish all accrued rights and benefits in the system, including all credited and creditable service. The board may, in its discretion, regardless of cause, withhold payment of a refund for a period not to exceed six (6) months after receipt of an application from a member.

(3) Any member who has received a refund shall be considered a new member upon subsequent reemployment if such person qualifies for membership under ***KRS 67A.360 to 67A.690***[~~the provisions hereof~~]. ***Any member who is reemployed after withdrawing from service and who received a refund of contributions shall, within ninety (90) days of his reemployment or prior to retirement, whichever occurs first,***[~~After the completion of at least five (5) years of continuous membership service following his latest reemployment, such member shall have the right to~~] make a repayment to the system of the amount or amounts previously received as ***a*** refund, including[~~ six percent (6%)~~] interest ***at the rate determined by the board to be the actual rate of return on investments made by the board, but not less than three percent (3%) per annum,*** from the dates of ***the*** refund to the date of repayment***, compounded annually***. Upon the

restoration of such refunds,~~[as herein provided,]~~ such member shall have reinstated to his account all credited service represented by the refunds of which repayment has been made. Repayment of refunds by any member shall include all refunds received by a member prior to the date of his last withdrawal from service***, with interest,*** and shall be made in a single ***lump*** sum ***payment.***~~[Such]~~ Repayments shall not be picked up by the urban-county government. ***If repayment is not made within the specified time period, the member shall have forever forfeited, waived, and relinquished the right to have reinstated to his account the credited service represented by the refunds for which repayment was not made, but shall not be precluded from purchasing service credit as provided in Section 2 of this Act.***

(4) Any member who has received, or who is entitled to receive, a refund, but who within six (6) months of becoming entitled to receive such refund, qualifies for membership under the provisions of a fund in effect in another government, or city of the second class, adopted pursuant to law, shall have the option of paying his refund into such other fund, in which event he shall be deemed a member of such other fund and his account therein shall be credited with all contributions, including those picked up pursuant to KRS 67A.510(2), and service under his original fund.

Section 7. KRS 67A.530 is amended to read as follows:

(1) The responsibility for the proper operation of the fund and the direction of its policies shall be vested in a board of trustees of ***twelve (12)***~~[eleven (11)]~~ members, consisting of the mayor, the commissioner of public safety, the commissioner of finance, the director of ***human resources***~~[personnel]~~, ***two (2)***~~[one (1)]~~ retired ***members***~~[member]~~ of the fund, the chiefs of the police and fire department, and two (2) active members of each department, who shall be elected by ballot by the active members of the respective departments and shall serve for alternating terms of two (2) years under rules adopted by the board. One of the active members representing each department shall be elected on even-numbered years; and the other active member representing such department shall be elected on odd-numbered years. In the event of a vacancy of an elected member, the pension board shall fill the vacancy by appointment until the next regular election.

(2) The retired fund ***members***~~[member]~~ shall be selected by retired fund members by ballot to serve~~[a]~~ two (2) year ***terms***~~[term]~~. ***One (1) retired fund member shall be a retired fire department member, and the other shall be a retired police department member.*** Retired fund members ***of a department*** shall submit the names of at least three (3) nominees ***from their department*** to the pension board not less than three (3) months before the term of office is due to expire.~~[For the term beginning October 15, 1990, names of nominees shall be submitted to the pension board by no later than July 15, 1990.]~~ The pension board shall cause to be prepared an official ballot which shall be distributed to all retired fund members by mail to their last known address. The ballot shall contain the name, address, and former ***department***~~[position]~~ of each of the~~[three (3)]~~ candidates. Retired fund members shall vote for one (1) candidate ***from each department*** by marking a square opposite the name of the candidate of his choice and returning the marked ballot to the secretary of the pension board. Votes shall be tabulated by a committee of three (3) pension board members appointed by the chairman for that purpose. The tabulating committee shall report in writing to the pension board the results of the election and the name of the retired fund member who shall serve on the board. In the event of a vacancy of an elected retired fund member of the board, the pension board shall fill the vacancy by appointment until the next regular election.

(3) It is the intention of KRS 67A.360 to 67A.690 that the one elected member from each department on the pension boards of funds serving immediately prior to the adoption of the urban-county form of government shall retain his office for one (1) year, and that the other elected member from each department shall be elected for a two (2) year term.

Section 8. KRS 67A.560 is amended to read as follows:

(1) The officers of the board shall consist of a president, vice president, and a secretary. The president shall be the chief executive officer of the board, shall preside at all meetings and shall appoint all necessary committees. The vice president shall serve as president in the absence of the president.

(2) The board shall designate a secretary who may be a member of the board and shall fix his compensation. The secretary shall keep a full account of all proceedings of the board and shall give notice of all meetings and give effect to all resolutions, orders, and directives of the board. He shall be in charge of the detailed affairs of administration of the fund; shall keep the record of proceedings of all meetings; shall keep all books, files, records, and accounts of the fund; shall receive all applications for annuities, benefits, and refunds; shall prepare periodic reports relative to the financial operations of the fund for the information of the board and its membership; shall compile all statistics pertinent to the operations of the fund; and shall answer all correspondence received by the board.

(3) The commissioner of finance shall be ex officio treasurer of the board and custodian of the fund. He shall have custody of all cash and securities of the fund, subject to the authority and directives of the board, and shall keep such accounts and records as may be prescribed by the board. These accounts and records shall be subject to inspection of the board or any member thereof.

(4) The commissioner of finance shall, within ten (10) days after his selection, execute a bond to the board, with good surety, in such penal sum as the board directs, to be approved by the board, conditioned upon the faithful performance of the duties of his office, and that he will safely keep and will truthfully account for all money and properties that come into his hands as treasurer of the fund, and that upon the expiration of his term of office, he will deliver to his successor all securities, unexpended moneys, and other properties that come into his hands as treasurer of the fund. The bond will be filed with the secretary of the board, and suit thereon may be filed in the name of the board for use of the board or any

person injured by its breach. The premium on said bond may be paid out of the fund.

(5) The commissioner of law of the government shall serve as legal adviser to the board on all matters pertaining to the fund involving suits or actions at law, and on any questions of the interpretation of the provisions hereof, except that the board shall have the power to hire independent counsel for any suits or actions of law, the cost of such independent counsel to be borne by the pension fund.

(6) The board may employ actuarial assistance from time to time to advise it in matters relating to the technical aspects of operations of the fund, to assist in the preparation of the periodic financial reports, to determine rates of ***urban-county***[~~city~~] contribution and to make periodic analyses of the operation of the fund. Within six (6) months after the establishment of an urban-county form of government, an actuarial study shall be made for the purpose of recommending rates, mortality, disability, retirement, separations from service, and other essential factors. ***Beginning July 1, 2000, and*** at least once every ***two (2)***[~~three (3)~~] years thereafter an actuarial survey and investigation shall be made of the operating experience of the fund, including a study of the rates, mortality, disability, retirement, separations from service, and other essential factors. The actuary shall recommend all mortality and interest tables to be adopted by the board, and shall recommend, if appropriate, cost-of-living increases as provided in KRS 67A.430. In the event such survey is not undertaken as provided herein, any member of the fund or any annuitant may obtain an injunction or mandamus requiring such survey and investigation, or may obtain the appointment of a person or persons to make such study and investigation, from the Circuit Court of any county in which the government is located.

(7) The board shall establish rules and regulations to implement the provisions of KRS 67A.360 to 67A.690 which shall not be inconsistent therewith.

HB 742, AN ACT relating to the purchase of development rights for public parks.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 67A.160 is amended to read as follows:

The procedure for a referendum authorized by KRS 97.590 shall be as follows:

(1) A public parks purchase and maintenance program proposal authorized by KRS 97.590 may be submitted to the voters of an urban-county by either a resolution of the legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out the matters specified in KRS 97.590(1). The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the effect or impact of the proposal.

(2) Petitions shall be signed by registered voters of the urban-county government equal in number to at least ten percent (10%) of the total number of votes cast in the urban-county in the last regular mayoral election of the urban-county government.

(3) If, not later than ninety (90) days preceding the day established for a regular election, the county clerk receives a resolution adopted by a three-fifth's (3/5) vote of the legislative body of the urban-county government requesting that the question be submitted to the voters or determines that a petition submitted in accordance with this section is sufficient, the legal department of the urban-county government shall prepare to place before the voters of the urban-county government at the next regular election the question, which shall appear on the ballot in the following form:

"( ) FOR RATIFICATION OF (summary of proposed program)
( ) AGAINST RATIFICATION OF (summary of proposed program)"

The county clerk shall cause to be published not fewer than three (3) times within thirty (30) days of the election, in a newspaper having a general circulation in the territory of the urban-county government, notice of the referendum, the exact language of the proposal, and a map prepared by the urban-county government showing the general location of the properties that may be purchased and the public parks that may be maintained under the program.

(4) The provisions of general election law shall apply to a referendum conducted under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor of the urban-county government and the certificate shall be entered upon the records of the urban-county government during the next regular meeting of the urban-county government legislative body. If a proposed program is approved, it shall become effective at the time specified in the proposal, but the effective date shall not be before the first day of January following the election.

(5) A public parks purchase and maintenance program proposal authorized by KRS 97.590 may be combined with a purchase of development rights program authorized by KRS 67A.843 and KRS 67A.845, if the provisions of this section and Section 2 of this Act are complied with. In the case of a combined proposal, the urban-county government shall place before the voters a single ballot proposal that combines the parks purchase and maintenance proposal and the purchase of development rights proposal. In that event, the proposal shall specify which tax levy or portion thereof shall provide funding for the parks purchase and maintenance program proposal and which shall provide funding for the purchase of development rights program proposal.

Section 2. KRS 67A.847 is amended to read as follows:

The procedure for a referendum authorized by KRS 67A.843 shall be as follows:

(1) A purchase of development rights program proposal authorized by KRS 67A.843 and 67A.845 may be submitted to the voters of an urban-county by either a resolution of the legislative body or a petition meeting the requirements of this section. The resolution or petition shall set out the matters specified in KRS 67A.843(1). The proposal shall be drafted in such a way that a vote in favor of adoption shall be a vote in favor of the proposal.

(2) Petitions shall be signed by registered voters of the urban-county government equal in number to at least ten percent (10%) of the total number of votes cast in the urban-county in the last regular mayoral election of the urban-county government.

(3) If, not later than ninety (90) days preceding the day established for a regular election, the county clerk receives a resolution adopted by a three-fifths (3/5) vote of the legislative body of the urban-county government requesting that the question be submitted to the voters or determines that a petition submitted in accordance with this section is sufficient, the legal department of the urban-county government shall prepare to place before the voters of the urban-county government at the next regular election the question, which shall appear on the ballot in the following form:

"( ) FOR RATIFICATION OF (summary of proposed program)

( ) AGAINST RATIFICATION OF (summary of proposed program)".

The county clerk shall cause to be published, not fewer than three (3) times within the thirty (30) day period immediately preceding the election in a newspaper having a general circulation in the territory of the urban-county government, notice of the referendum, the exact language of the proposal, and a map prepared by the urban-county government showing the general location of the properties from which development rights may be purchased under the program.

(4) The provisions of general election law shall apply to a referendum conducted under this section. The certificate of the body authorized by law to canvass election returns shall be delivered to the mayor of the urban-county government and the certificate shall be entered upon the records of the urban-county government during the next regular meeting of the urban-county government legislative body. If a proposed program is approved, it shall become effective at the time specified in the proposal, but the effective date shall not be before the first day of January following the election.

(5) A purchase of development rights program proposal authorized by KRS 67A.843 and 67A.845 may be combined with a public parks purchase and maintenance program proposal authorized by KRS 97.590, if the provisions of this section and Section 1 of this Act are complied with. In the case of a combined proposal, the urban-county government shall place before the voters a single ballot proposal that combines the purchase of development rights program proposal and the parks purchase and maintenance program proposal. In that event, the proposal shall specify which tax levy or portion thereof shall provide funding for the purchase of development rights program proposal and which will provide funding for the parks purchase and maintenance program proposal.

Section 3. KRS 97.590 is amended to read as follows:

(1) For the purpose of purchasing and maintaining public parks within the jurisdictional limits, cities of any class, counties, charter counties, and urban-county governments may levy taxes not exceeding five cents ($0.05) on each one hundred dollars ($100) of all taxable property within the corporate limits***, subject only to the aggregate limits on property taxes set forth in the Kentucky Constitution, but not subject to the recall provisions of KRS 132.017***. No city, county, charter county, or urban-county government shall levy the tax until a public referendum has been conducted in accordance with the provisions of KRS 83A.120 in the case of a city, county, or charter county or in accordance with the provisions of KRS 67A.160 in the case of an urban-county government and has been adopted by the city's, county's, charter county's, or urban-county government's voters. The public referendum provisions in this section shall not apply to any city, county, charter county, or urban-county government that has in effect on July 15, 1998, a tax for park purposes in accordance with this section or KRS 97.550.

(2) The funds derived from the levy shall be held by the treasurer of the city or the treasurer of the county in a separate and distinct fund designated the "Park Fund***.***~~[,]~~" ***The funds***~~[and]~~ shall be paid out by the treasurer only upon order issued by the park board signed by the secretary and countersigned by the president after the bill for the withdrawal has been approved by the board***, unless a park board has not been appointed under KRS 97.550 to KRS 97.600, in which case the funds shall be appropriated by the city legislative body, the fiscal court, or the legislative body of the charter county government or urban-county government for purposes consistent with the levy***. The treasurer shall not honor in any one (1) year orders for a greater sum than the amount apportioned and levied for that year for park and playground purposes.

HB 829, AN ACT changing the classification of the City of Indian Hills, in Jefferson County.

WHEREAS, satisfactory information has been presented to the General Assembly that the population of the City of Indian Hills, in Jefferson County, is such as to justify its being classified as a city of the fourth class;

NOW THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The City of Indian Hills, in Jefferson County, is transferred from the fifth to the fourth class of cities.

The Committee on Economic Development reported **SB 190** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

SB 190, AN ACT relating to a state arboretum garden.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The University of Kentucky-Fayette County Arboretum shall be designated as the official state botanical garden of the Commonwealth of Kentucky.

The Committee on Banking and Insurance reported **HB 649, HB 709,** with Committee Amendment attached thereto, **HB 757,** with Committee Amendment attached thereto, **HB 765,** with Committee Amendment attached thereto, and **HB 875,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 649, AN ACT relating to loans.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 287.215 is amended to read as follows:

(1) (a) In addition to the powers heretofore granted, any bank or trust company or combined bank and trust company shall have the power to lend money repayable in installments; to charge or to receive in advance interest therefor in the case of a loan having a maximum maturity of not more than five (5) years and thirty-two (32) days; to contract for a charge for a secured or unsecured installment loan, and which under its terms shall be repayable in installments over a period of not exceeding ten (10) years and thirty-two (32) days, which charge shall be at a rate not exceeding eight dollars ($8) per one hundred dollars ($100) per annum upon the principal amount of the loan which charge or charges shall be for the entire period of the loan and may be collected in advance only if the maximum maturity of the loans does not exceed five (5) years and thirty-two (32) days.

(b) If the maturity of the loan exceeds five (5) years and thirty-two (32) days but does not exceed ten (10) years and thirty-two (32) days the charge of interest may not be discounted or received in advance but may be added on to the principal amount of the loan and shall not be discounted.

(c) If any scheduled payment or deferred payments are more than twice as large as the average of the earlier scheduled payments, the debtor and creditor shall agree that the debtor has the right to finance the amount of such payment or deferred payments at the time they are due without penalty. The terms of the refinancing which are agreed to by the debtor and the creditor shall be no less favorable to the debtor than the terms of the original loan.

(2) In addition to the ***charges***~~[charge]~~ permitted by this section, no further amount shall be directly or indirectly charged, contracted for, or received on any such installment loan, except lawful fees actually paid to a public officer for filing, recording, or releasing any instrument securing the loan and delinquent charges as hereinafter set out, and except an investigation fee not exceeding one dollar ($1) for each fifty dollars ($50) or fraction thereof upon the first eight hundred dollars ($800) of the principal amount of such loans.

(3) ***A loan fee not to exceed seventy-five dollars ($75) may be charged on a loan made under this section if the original principal amount of the loan does not exceed five thousand dollars ($5,000) and the maximum maturity of the loan does not exceed three (3) years.***

(4) Delinquency charges may be made not to exceed five cents ($0.05) for each dollar of each installment more than ten (10) days in arrears, and only one (1) delinquency charge shall be made on any one (1) installment. No delinquency charge shall exceed five dollars ($5) on any one (1) installment. In addition to such delinquency charges, attorney's fees not exceeding fifteen percent (15%) of the unpaid balance and court costs may be collected, provided that the note is referred to an attorney not a salaried employee of the holder for collection.

(5)~~[(4)]~~The lending institution shall permit the borrower to repay his loan in whole or in part at any time. If a loan is paid in full prior to maturity, the lending institution shall make a rebate at a rate not less than in accordance with the Rule of 78s if the maximum financing charge permitted hereunder has been taken. If a lesser charge has been taken, the rebate shall be at not less than a proportional rate. Provided, however, the lending institution shall be permitted in computing rebates to retain a minimum charge of ten dollars ($10) to cover its acquisition costs and where the amount of credit for anticipation of repayment is less than one dollar ($1), no rebate need be made.

(6)~~[(5)]~~In the case of loans made under this section the corporation shall not take any assignment, pledge, or transfer of wages to be earned or paid in the future, nor any first lien or first mortgage on real estate as security, except such lien as is created by virtue of a judgment or decree or first mortgage liens on loans on unimproved real estate not exceeding ten (10) acres in size or on real estate on which there is located or to be located a residential mobile home. Nothing in this section is intended to prevent lending institutions from making loans under the provisions of the National Housing Act or any other federal legislation, which loans are hereby authorized.

(7)[~~(6)~~]No lending institution under this section shall split up or divide a loan or permit any person to become obligated to it under more than one (1) contract of loan at the same time for the purpose of obtaining a greater charge than would otherwise be permitted by this section.

(8)[~~(7)~~]Every note evidencing a loan made under this section shall contain the following information and provisions: The original principal amount of the loan excluding any charge made under this section; a statement of the total charge for the loan; the amount and the date of each installment; the date of final maturity; an agreement that the borrower may repay the loan in whole or in part at any time, and that if the loan is paid in full before final maturity, the borrower will receive a refund of the unearned portion of the charge as required by this section. At the time the loan is made, the lending institution shall give the borrower either a copy of the note, or a statement of the transaction containing the provisions and information required to be contained in the note. The lending institution shall deliver a receipt for each payment.

(9)[~~(8)~~]In advertising for loans subject to this section, every advertisement shall conform to the following requirement: Any statement of the amount of the loan shall be the original principal amount showing in detail any charge made under this section.

(10)[~~(9)~~] KRS 288.420, 288.620 and 360.010 shall not apply to loans made under authority of this section, but said sections shall remain in full force and effect for all other purposes. Nothing in this section shall be construed to impair the validity or effect of said sections with respect to loans other than those made pursuant to this section nor shall anything in this section be construed to impair the validity or effect of KRS 360.025.

(11)[~~(10)~~] Any contract of loan in the making or collection of which any act shall have been done which constitutes a willful violation of any provision of this section shall be void, and the bank, trust company, or combined bank and trust company shall have no right to collect or receive any interest or charges whatsoever on such loan, but the unpaid principal of the loan shall be paid in full to the lending institution.

HB 709, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.2-430 is amended to read as follows:

Nothing in KRS 304.2-400 to 304.2-420 shall prevent continuing the practice of paying any of the direct or indirect expenses incurred by the department, including, but not limited to, those involving salaries, retirement, and Social Security of officers, employees, or representatives of the department, or any other expenses by appropriations from the general fund. However, the general fund shall be reimbursed for any such payments made on or after July 15, 1986, as well as any money transferred to the insurance regulatory trust fund in connection with the initial funding of the insurance regulatory trust fund, and shall be repaid by transfer from the insurance regulatory trust fund to the general fund no later than the end of the next biennium. ***The commissioner shall retain ten percent (10%) of the aggregate fines collected pursuant to Subtitle 99 of this chapter to establish and maintain a program to educate consumers on general insurance products, general insurance practices, and insurance fraud.***

Section 2. KRS 304.2-165 is amended to read as follows:

(1) The commissioner shall review***, and investigate where applicable,*** all written complaints ***involving entities or individuals engaged in the business of insurance in Kentucky***[~~that a health insurer doing business in Kentucky has denied a claim of an insured~~].

(2) The commissioner shall send a copy of the complaint to the ***entity or individual***[~~insurer~~] and ***the entity or individual shall send***[~~request~~] a written ***or electronic message response***[~~reply be sent~~] to the commissioner within ***fifteen (15) calendar***[~~ten (10)~~] days ***from the date of the commissioner's letter***.

(3) Upon review of a complaint, the commissioner shall make a ***finding***[~~recommendation~~] to the ***entity or individual and the complainant***[~~insurer and the insured~~].

(4) This section shall not limit the power of the commissioner to exercise any other authority under this code ***as to an***[~~or to a health~~] insurance[~~ claim~~] dispute.

SECTION 3. A NEW SECTION OF SUBTITLE 14 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

An action or request for reimbursement for any overpayment pursuant to any health insurance contract shall be brought not more than two (2) years from the date the claim was filed. No insurer, assignee of the insurer, or other person, whether acting for himself or another in connection with a health insurance transaction shall make any claim or seek recovery for reimbursement for any overpayment pursuant to any health insurance contract from any person more than two (2) years after the claim was filed, unless the claim was false or fraudulent.

SECTION 4. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

For the protection of the people of Kentucky, the commissioner may by order deny, suspend, or place conditions upon any license subject to the provisions of this subtitle.

(1) An order denying a license or appointment shall be based upon the application and any other information pertaining to the applicant available to the department.

(2) One (1) or more of the following circumstances shall be considered for an order suspending a license:

(a) The licensee's indictment for crime involving dishonesty, breach of trust, a violation of Subtitle 47 of this chapter, or a violation of 18 USC 1033;

(b) Sworn consumer complaints to the department against the licensee showing clear and convincing evidence of a violation of KRS 304.9-400 totaling in the aggregate three hundred dollars ($300) or more;

(c) The suspension or revocation of any other professional license held by the licensee in Kentucky or any other jurisdiction.

(3) The commissioner may place conditions upon any license for any reason set forth in subsection (2) of this section.

(4) Any person aggrieved by an order of the commissioner under this section may file an application for an emergency hearing pursuant to KRS 13B.125 within sixty (60) days of the date of the order. The department shall conduct the hearing within ten (10) working days of the request for a hearing, and within five (5) working days of the completion of the hearing the agency or hearing officer shall render a written decision affirming, modifying, or revoking the emergency order. The emergency order shall be affirmed if there is substantial evidence of a violation of law that constitutes an immediate danger to the public health, safety, or welfare. The commissioner shall participate in an expedited hearing at the applicant's written request.

The Committee Amendment No. 1 to **HB 709** is as follows:

On page 1, line 10, by deleting "*The commissioner*"; and

On page 1, by deleting lines 11 to 13 in their entirety.

HB 757, AN ACT relating to health insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS 304.17A-500 TO 304.17A-590 IS CREATED TO READ AS FOLLOWS:

(1) A managed care plan as defined in Section 5 of this Act shall file with the commissioner sample copies of any agreements it enters into with providers for the provision of health care services. The commissioner shall promulgate administrative regulations prescribing the manner and form of the filings required. The agreements shall include the following:

(a) A hold harmless clause that states that the provider may not, under any circumstance, including:

1. Nonpayment of moneys due the providers by the managed care plan,

2. Insolvency of the managed care plan, or

3. Breach of the agreement

bill, charge, collect a deposit, seek compensation, remuneration, or reimbursement from, or have any recourse against the subscriber, dependent of subscriber, enrollee, or any persons acting on their behalf, for services provided in accordance with the provider agreement. This provision shall not prohibit collection of deductible amounts, copayment amounts, coinsurance amounts, and amounts for noncovered services;

(b) A continuity of care clause that states that if an agreement between the provider and the managed care plan is terminated for any reason, other than a quality of care issue or fraud, the provider shall continue to provide services in accordance with the agreement until the subscriber, dependent of the subscriber, or the enrollee is discharged from an inpatient facility, or the active course of treatment is completed, whichever time is greater, and in the case of a pregnant woman, services shall continue to be provided through the end of the post-partum period if the pregnant woman is in her fourth or later month of pregnancy;

(c) A survivorship clause that states the hold harmless clause and continuity of care clause shall survive the termination of the agreement between the provider and the managed care plan; and

(d) A clause requiring that if a provider enters into any subcontract agreement with another provider to provide health care services to the subscriber, dependent of the subscriber, or enrollee of a managed care plan the subcontract agreement must meet all requirements of this subtitle and that all such subcontract agreements shall be filed with the commissioner in accordance with this subsection.

(2) A managed care plan that enters into any risk-sharing arrangement with a provider shall file a copy of the arrangement with the commissioner. The managed care plan shall also file the following information regarding the risk-sharing arrangement:

(a) The number of enrollees affected by the risk-sharing arrangement;

(b) The health care services to be provided to an enrollee under the risk-sharing arrangement;

(c) The nature of the financial risk to be shared between the managed care plan and provider, including, but not

limited to, the method of compensation;

(d) Any administrative functions delegated by the managed care plan to the provider. The managed care plan shall describe a plan to ensure that the provider will comply with KRS 304.17A-500 to 304.17A-590 in exercising any delegated administrative functions; and

(e) The managed care plan's oversight and compliance plan regarding the standards and method of review.

Section 2. KRS 304.17A-505 is amended to read as follows:

An insurer shall disclose in writing to an ***insured or*** enrollee, in a manner consistent with the provisions of KRS 304.14-420 to 304.14-450, the terms and conditions of its health insurance contract and shall promptly provide the enrollee with written notification of any change in the terms and conditions prior to the effective date of the change. The insurer shall provide the required information at the time of enrollment and upon request thereafter.

(1) The information required to be disclosed under this section shall include a description of:

(a) Covered services and benefits to which the enrollee or other covered person is entitled;

(b) Restrictions or limitations on covered services and benefits;

(c) Financial responsibility of the covered person, including copayments and deductibles;

(d) Prior authorization and any other review requirements with respect to accessing covered services;

(e) Where and in what manner covered services may be obtained;

(f) Changes in covered services or benefits, including any addition, reduction, or elimination of specific services or benefits;

(g) The covered person's right to appeal and the procedure for initiating an appeal of a utilization management decision made by or on behalf of the insurer with respect to the denial, reduction, or termination of a health care benefit or the denial of payment for a health care service;

(h) The procedure to initiate an appeal through the process under KRS 211.464(1)(g);

(i) Measures in place to ensure the confidentiality of the relationship between an enrollee and a health care provider;[~~and~~]

(j) Other information as the commissioner shall require by administrative regulation***;***

(k) A summary of the drug formulary, including, but not limited to, drugs requiring prior authorization, any restrictions, limitations, and procedures for authorization to obtain drugs not on the formulary and, upon request of an insured or enrollee, a complete drug formulary; and

(l) A statement informing the insured or enrollee that if the provider meets the insurer's enrollment criteria and is willing to meet the terms and conditions for participation, the provider has the right to become a provider for the insurer.

(2) The insurer shall file the information required under this section with the department.

Section 3. KRS 304.17A-510 is amended to read as follows:

(1) In addition to the disclosure requirements provided in KRS 304.17A-505, an insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, the following information at the time of enrollment and upon request:

(a) A current participating provider directory providing information on a covered person's access to primary care health care providers, including available participating health care providers, by provider category or specialty and by county. The directory shall include the professional office address of each participating health care provider. The directory shall also provide information about participating hospitals and other providers. The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider;

(b) General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients;[~~and~~]

(c) The insurer's managed care plan's standard for customary waiting times for appointments for urgent and routine care***; and***

(d) The existence of any hold harmless agreements it has with providers and their effect on the enrollee.

The insurer shall provide a prospective enrollee with information about the provider network, including hospital affiliations, and other information specified in this subsection, upon request.

(2) Upon request of a covered person, an insurer shall promptly inform the person:

(a) Whether a particular network provider is board certified; and

(b) Whether a particular network provider is currently accepting new patients.

(3) Each insurer shall annually make available to its enrollees at its principal office and place of business:

(a) Its most recent annual statement of financial condition including a balance sheet and summary of receipts and disbursements; and

(b) A current description of its organizational structure and operation.

Section 4. KRS 304.17A-515 is amended to read as follows:

(1) A managed care plan shall arrange for a sufficient number and type of primary care providers and specialists throughout the plan's service area to meet the needs of enrollees. Each managed care plan shall demonstrate that it offers:

(a) An adequate number of accessible acute care hospital services, where available;

(b) An adequate number of accessible primary care providers, including family practice and general practice physicians, internists, obstetricians/gynecologists, and pediatricians, where available;

(c) An adequate number of accessible specialists and subspecialists, and when the specialist needed for a specific condition is not represented on the plan's list of participating specialists, enrollees have access to nonparticipating health care providers with prior plan approval;

(d) The availability of specialty services; and

(e) ***A provider network that meets the following accessibility requirements:***

1. For urban areas, a provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence or work, to the extent that services are available; or

2. For areas other than urban areas, a provider network that makes available primary care physician services, hospital services, and pharmacy services within thirty (30) minutes or thirty (30) miles of each enrollee's place of residence or work, to the extent those services are available. All other providers shall be available to all persons enrolled in the plan within fifty (50) minutes or fifty (50) miles of each enrollee's place of residence or work, to the extent those services are available

[~~A provider network that is available to all persons enrolled in the plan within thirty (30) miles or thirty (30) minutes of each person's place of residence, to the extent those services are available~~].

(2) A managed care plan shall provide telephone access to the plan during business hours to ensure plan approval of nonemergency care. A managed care plan shall provide adequate information to enrollees regarding access to urgent and emergency care.

(3) A managed care plan shall establish reasonable standards for waiting times to obtain appointments, except as provided for emergency care.

Section 5. KRS 304.17A-500 is amended to read as follows:

As used in KRS 304.17A-500 to ***304.17A-590***[~~304.17A-570~~], unless the context requires otherwise:

(1) ***"Areas other than urban areas" means a classification code that does not meet the definition of urban area;***

(2) "Contract holder" means an employer or organization that purchases a contract for services;

(3)[~~(2)~~]"Covered person" means a person on whose behalf an insurer offering the plan is obligated to pay benefits or provide services under the health insurance policy;

(4)[~~(3)~~]"Emergency medical condition" means:

(a) A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that ***a prudent layperson would reasonably have cause to believe constitutes a condition that*** the absence of immediate medical attention could reasonably be expected to result in:

1. Placing the health of the individual or, with respect to a pregnant woman, the health of the woman or her unborn child, in serious jeopardy;

2. Serious impairment to bodily functions; or

3. Serious dysfunction of any bodily organ or part; or

(b) With respect to a pregnant woman who is having contractions:

1. A situation in which there is inadequate time to effect a safe transfer to another hospital before delivery; or

2. A situation in which transfer may pose a threat to the health or safety of the woman or the unborn child;

(5)[~~(4)~~]"Enrollee" means a person who is enrolled in a managed health care plan;

(6)[~~(5)~~]"Grievance" means a written complaint submitted by or on behalf of an enrollee;

(7)[~~(6)~~]"Health insurance policy" means "health benefit plan" as defined in KRS 304.17A-005;

(8)[~~(7)~~]"Insurer" has the meaning provided in KRS 304.17A-005;

(9)[~~(8)~~]"Managed care plan" means a health insurance policy that integrates the financing and delivery of appropriate health care services to covered persons by arrangements with participating providers who are selected to participate on the basis of explicit standards to furnish a comprehensive set of health care services and financial incentives for covered persons to use the participating providers and procedures provided for in the plan;

(10)[~~(9)~~] "Participating health care provider" means a health care provider that has entered into an agreement with an insurer to provide health care services to an enrollee in its managed care plan;

(11)[~~(10)~~] "Quality assurance or improvement" means the ongoing evaluation by a managed care plan of the quality of health care services provided to its enrollees;

(12)[~~(11)~~] "Record" means any written, printed, or electronically recorded material maintained by a provider in the course of providing health services to a patient concerning the patient and the services provided. "Record" also includes the substance of any communication made by a patient to a provider in confidence during or in connection with the provision of health services to a patient or information otherwise acquired by the provider about a patient in confidence and in connection with the provision of health services to a patient;[~~ and~~]

(13)[~~(12)~~] ***"Urban area" means a classification code whereby the zip code population density is greater than three thousand (3,000) persons per square mile; and***

(14) "Utilization management" means a system for reviewing the appropriate and efficient allocation of health care services under a health benefits plan according to specified guidelines, in order to recommend or determine whether, or to what extent, a health care service given or proposed to be given to a covered person should or will be reimbursed, covered, paid for, or otherwise provided under the plan. The system may include preadmission certification, the application of practice guidelines, continued stay review, discharge planning, preauthorization of ambulatory care procedures, and retrospective review.

Section 6. KRS 304.17A-540 is amended to read as follows:

(1) Any insurer that limits coverage for any treatment, procedure, ***a*** drug, or device shall define the limitations and fully disclose those limits in the health insurance policy or certificate coverage.

(2) (a) Any insurer that denies coverage for a treatment, procedure, ***a*** drug ***that requires prior approval,*** or device for an enrollee shall provide the enrollee with a denial letter that shall include:

1. The name, license number, state of licensure, and title of the person making the decision;

2. A statement setting forth the specific medical and scientific reasons for denying coverage ***of a service, if the coverage is denied for reasons of medical necessity***[~~or identifying that provision of the schedule of benefits or exclusions that demonstrates that coverage is not available;~~

~~3. A description of other alternative treatment, services, or supplies covered by the plan, if any~~]; and

3.[~~4.~~] Instructions for initiating or complying with the plan's grievance or appeal procedure stating at a minimum whether the appeal must be in writing, any time limitations or schedules for filing appeals and the name and phone number of a contact person who can provide additional information.

(b) The denial letter shall be provided within:

1. Two (2) regular working days of the submitted request where preauthorization for a treatment, procedure, drug, or device is involved;

2. Twenty-four (24) hours of the submitted request where hospital preadmission review is sought;

3. Twenty (20) working days of the receipt of requested medical information where the plan has initiated a retrospective review; and

4. Twenty (20) working days of the initiation of the review process in all other instances.

Section 7. KRS 304.17A-580 is amended to read as follows:

(1) ***An insurer offering*** health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.

(2) ***An insurer offering*** health benefit plans[~~ using a defined network of health care providers~~] shall cover emergency ***medical conditions and shall pay for emergency*** department screening and stabilization services both in-network and out-of-network without prior authorization for ***conditions that reasonably appear to constitute an emergency medical condition based on the patient's presenting symptoms and condition. An insurer shall be prohibited from denying the emergency room services and altering the level of coverage or cost-sharing requirements for any condition or conditions that constitute an emergency medical condition as defined in Section 5 of this Act***[~~use consistent with the prudent layperson standard~~].

(3) Emergency department personnel shall contact a patient's primary care provider or ***insurer***[~~health benefit plan~~], as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care.

Section 8. KRS 304.17A-590 is amended to read as follows:

(1) An insurer that offers a managed care plan shall disclose to an enrollee, in writing, in a manner consistent with KRS 304.14-420 to 304.14-450, and any risk-bearing managed care plan shall disclose to an enrollee, in writing, at the time of enrollment and thereafter upon request, and as new providers are contracted with by the plans, or as the directory may change, a current participating provider directory providing information on a covered person's access to primary care physicians and specialists, optometrists, chiropractors, and hospitals, including available participating physicians, optometrists, chiropractors, and hospitals, by provider category or specialty and by county. The directory shall include the following:

(a) Professional office addresses and telephone numbers for all participating ***providers***[~~:~~

~~1. Primary care physicians;~~

~~2. Optometrists;~~

~~3. Chiropractors;~~

~~4. Hospitals; and~~

~~5. Other health care providers as defined under KRS 304.17A-010(11);~~

~~(b) Information about drug formularies and their restrictions, limitations, and procedures for authorization outside the formularies~~];

(b)[~~(c)~~]The benefits for each provider type;

(c)[~~(d)~~]General information about the type of financial incentives between participating providers under contract with the insurer and other participating health care providers and facilities to which the participating providers refer their managed care patients; and

(d)[~~(e)~~]Grievance procedures available under the plans for complaint resolutions.

(2) The insurer shall promptly notify each covered person on the termination or withdrawal from the insurer's provider network of the covered person's designated primary care provider.

(3) The provisions of this section shall be implemented prior to any open enrollment period for which the effective date of coverage will be January 1, 1999, or for which the effective date shall commence after an open enrollment period, and shall continue for each open enrollment period thereafter.

The Committee Amendment No. 1 to **HB 757** is as follows:

On page 1, line 22, after "***services***" by inserting "***and reimburse the provider***"; and

On page 4, line 3, after "***to,***" by inserting "***a listing of the most commonly used drugs,***"; and

On page 10, line 14, after "***appear***" by inserting "***to a prudent layperson***"; and

On page 12, after line 2, by adding:

"Section 9. KRS 304.17A-535 is amended to read as follows:

(1) A managed care plan shall include a drug utilization review program, the primary emphasis of which shall be to enhance quality of care for enrollees by assuring appropriate drug therapy within the health care provider's legally authorized scope of practice, that includes the following:

(a) Retrospective review of prescription drugs furnished to enrollees;

(b) Education of health care providers and enrollees regarding the appropriate use of prescription drugs; and

(c) Ongoing periodic examination of data on outpatient prescription drugs to ensure quality therapeutic outcomes for enrollees.

(2) The drug utilization review program shall utilize the following to effectuate the purposes of subsection (1) of this section:

(a) Relevant clinical criteria and standards for drug therapy;

(b) Nonproprietary criteria and standards developed and revised through input from participating health care providers;

(c) Intervention that focuses on improving therapeutic outcomes; and

(d) Measures to ensure the confidentiality of the relationship between an enrollee and a health care provider.

(3) When, in the professional opinion of a provider with prescriptive authority, the provider determines that generic substitution of a pharmaceutical product is medically inappropriate, the provider shall prescribe the pharmaceutical product the provider determines medically appropriate with the indication "Do Not Substitute," and no substitution shall be made without the provider's approval.

(4) A managed care plan that restricts pharmacy benefits to a drug formulary shall have an exceptions policy through which the managed care plan may cover a prescription drug not included on the formulary.".

HB 765, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF SUBTITLE 20 OF KRS 304 IS CREATED TO READ AS FOLLOWS:

Any policy or inspection fee in consideration for a property and casualty insurance contract, issued or renewed on or after the effective date of this Act, shall be deemed fully earned.

The Committee Amendment No. 1 to **HB 765** is as follows:

On page 1, line 1, by deleting "20" and inserting "13"; and

On page 1, by deleting lines 3 to 5 in their entirety and inserting in lieu thereof:

"*(1) Any policy fee as related to underwriting expenses for a property or casualty insurance contract, issued or renewed on or after the effective date of this Act, by an agent licensed under KRS 304.9-085, shall be deemed fully earned. The fee shall only be collected if coverage is provided.*

(2) All fees referred to in subsection (1) of this section shall be submitted to the commissioner for prior approval.".

HB 875, AN ACT relating to insurance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 304.9-020 is amended to read as follows:

As used in this subtitle:

(1) "Agent" means an individual or business entity required to be licensed and appointed under the laws of this state to sell, solicit, negotiate, or effectuate insurance or annuity contracts.

(2) "Business entity" means a corporation, association, partnership, limited liability company, limited liability partnership, employer group, professional employer organization, or other legal entity.

(3) "Home state" means the District of Columbia and any state or territory of the United States in which a licensee maintains his or her principal place of residence or principal place of business and is licensed by that state.

(4) A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:

(a) Property insurance;

(b) Casualty insurance;

(c) Surety insurance;

(d) Marine and transportation insurance;

(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or causality insurance; and

(f) Mortgage guaranty insurance.

(5) "Limited line credit insurance" includes credit life, credit disability, credit property, credit unemployment, involuntary unemployment, mortgage life, mortgage guaranty, mortgage disability, automobile dealer gap insurance, and any other form of insurance offered in connection with an extension of credit that is limited to partially or wholly extinguishing that credit obligation that the commissioner determines should be designated a form of limited line credit insurance.

(6) "Limited line credit insurance agent " means an individual or business entity who sells, solicits, negotiates, or effectuates one (1) or more forms of limited line credit insurance coverage to individuals through a master, corporate, group, or individual policy.

(7) "Negotiate" means the act of conferring directly with, or offering advice directly to, a purchaser or prospective purchaser of a particular contract of insurance concerning any of the substantive benefits, terms, or conditions of the contract.

(8) "Sell" means to exchange a contract of insurance by any means, for money or other valuable consideration, on behalf of an insurer.

(9) "Solicit" means attempting to sell insurance or asking or urging a person to apply for a particular kind of insurance from a particular company.

(10) "Terminate" means the cancellation of the relationship between an agent and the insurer or the termination of an agent's authority to transact insurance.

(11) "Uniform business entity application" means the current version of the National Association of Insurance Commissioners Uniform Business Entity Application for resident and nonresident business entities.

(12) "Uniform application" means the current version of the National Association of Insurance Commissioners Uniform

Application for resident and nonresident agent licensing.

[~~An "agent" is an individual, firm, partnership, limited partnership, corporation, or limited liability company appointed by an insurer to solicit applications for insurance or annuity contracts or to negotiate insurance or annuity contracts on its behalf, and if authorized to do so by the insurer, to effectuate and countersign insurance contracts.~~]

Section 2. KRS 304.9-030 is amended to read as follows:

(1) ***Unless denied a license under this subtitle, applicants who have met the requirements for the license in accordance with this subtitle, shall be issued the applicable license***[~~A "general lines" agent is an agent who transacts any one (1) or more of the following kinds of insurance:~~

~~(a) Property insurance;~~

~~(b) Casualty insurance;~~

~~(c) Surety insurance;~~

~~(d) Marine and transportation insurance;~~

~~(e) Health insurance, when transacted for an insurer also represented by the same agent as to property or casualty insurance; and~~

~~(f) Mortgage guaranty insurance~~].

(2) ***An insurance agent may receive qualification for a license in one (1) or more of the following lines of authority:***

(a) Life-insurance coverage on human lives including benefits of endowment and annuities, and may include benefits in the event of death or dismemberment by accident and benefits for disability income;

(b) Health insurance coverage for sickness, bodily injury, or accidental death and may include benefits for disability income;

(c) Property insurance coverage for the direct or consequential loss or damage to property of every kind;

(d) Casualty insurance coverage against legal liability, including that for death, injury, or disability, or damage to real or personal property;

(e) Variable life and variable annuity products insurance coverage provided under variable life insurance contracts, variable annuities, or any other life insurance or annuity product that reflects the investment experience of a separate account;

(f) Limited line insurance as identified in KRS 304.9-230;

(g) Marine and transportation insurance as defined in KRS 304.5-080;

(h) Mortgage guaranty insurance as defined in KRS 304.5-100; and

(i) Any other line of insurance permitted under Kentucky law and deemed by the commissioner appropriate to be issued as a separate line of authority.

[~~A "life" agent is an agent who transacts life insurance or annuity business. An agent may be appointed for life insurance only, if the insurer is a life and health insurer.~~

~~(3) A "health" agent is an agent who transacts health insurance only, whether licensed by a life insurer or other than life insurer.~~

~~(4) A "life and health" agent is an agent who transacts life insurance or annuity business, and includes also the transaction of health insurance on behalf of an insurer for whom the agent is also licensed as to life insurance.~~]

Section 3. KRS 304.9-035 is amended to read as follows:

Any ***insurer***[~~insurance company~~] shall be liable for the acts of its agents when the agents are acting in their capacity as representatives of the ***insurer***[~~insurance company~~] and are acting within the scope of their authority.

Section 4. KRS 304.9-080 is amended to read as follows:

(1) ***An individual or business entity shall not sell, solicit, negotiate, or effectuate insurance in this state unless the individual or business entity is licensed for that line of authority in accordance with this subtitle.***

(2) No ***individual or business entity***[~~person~~] shall in this state be, act as, or hold himself ***or herself*** out as ***a***[~~an agent, solicitor,~~] consultant[~~,~~] or adjuster unless then licensed as ***a***[~~an agent, solicitor,~~] consultant[~~,~~] or adjuster respectively.

[~~(2) No agent, or solicitor shall solicit or take applications for, procure or place for others any kind of insurance as to which he is not then licensed.~~]No consultant shall act as ***a consultant***[~~such~~] with respect to any kind of insurance as to which he ***or she*** is not then licensed as a consultant.

(3) A consultant license must cover either or both of the following categories, as selected by the licensee:

(a) General lines;

(b) Life and health.

A consultant licensed in both categories shall qualify separately for, and be licensed in, each category.

(4) No ***individual***[~~person~~] licensed as a consultant shall act as a consultant until he ***or she*** has filed with the commissioner a bond or insurance as prescribed in KRS 304.9-330.

(5) Except as provided in KRS 304.9-410 ***and subsection (3) of Section 21 of this Act***, no agent shall place, and no insurer shall accept, any insurance with any insurer as to which ***the agent***[~~he~~] does not then hold a license and appointment as agent under this subtitle.

(6) The commissioner shall prescribe and furnish all forms required under this subtitle as to licenses and appointments.

Section 5. KRS 304.9-085 is amended to read as follows:

(1) A "managing general agent" is an individual ***or business entity***[~~, firm, or corporation~~] appointed by an insurer to solicit applications from agents for insurance contracts or to negotiate insurance contracts on behalf of an insurer, and if authorized to do so by an insurer, to effectuate and countersign insurance contracts.

(2) No ***individual or business entity***[~~person~~] shall in this state be, act as, or hold himself ***or herself*** out as a managing general agent unless then licensed as a managing general agent. In order to qualify for a managing general agent license, ***an individual***[~~a person~~] shall:

- (a) Hold a general lines[~~ insurance~~] agent license and be appointed by each authorized insurer the ***licensee***[~~person~~] holds the contract to represent;
- (b) If a nonresident, hold a nonresident general lines[~~ insurance~~] agent license and be appointed by each authorized insurer the ***licensee***[~~person~~] represents in Kentucky. Nonresidents are subject to the restrictions of KRS 304.9-140; and
- (c) Hold a surplus lines broker license if any unauthorized insurers are represented or used.

In order for a ***business entity***[~~corporation or firm~~] to qualify for a managing general agent license, all ***individuals***[~~persons~~] acting on behalf of the corporation or firm under its license shall be licensed general lines[~~ insurance~~] agents.

(3) As used in this chapter, "agent" includes managing general agent unless the context requires otherwise.

(4) A managing general agent is a representative of the insurers which the managing general agent holds a contract to represent. Such insurers are liable for the acts of the managing general agent in representing the insurers.

(5) The commissioner shall issue managing general agent licenses to expire on March 31, 1988, and to be renewed biennially thereafter.

Section 6. KRS 304.9-090 is amended to read as follows:

(1) The definition of[~~ agent, solicitor or~~] consultant shall not be deemed to include [~~:~~

~~(1) Salaried employees in the office of a general lines agent, which employees devote full time to clerical and administrative services, with incidental taking of insurance applications and receiving premiums in the office of the employer agent if the employee does not receive any commissions on such applications and his compensation is not varied by the volume of applications or premiums taken or received by such employee;~~

~~(2)~~]the supervising managing general agent (except as defined in KRS 304.9-085) or supervising officer or employee of an insurer who solicits only with duly licensed resident agents of the insurer[~~;~~

~~(3) Newsboys and managers of newspaper distribution offices who incidentally take applications of so-called "newspaper accident insurance" and receive premiums in connection therewith;~~

~~(4) Employees or other representatives of a group policyholder engaged in enrolling certificate holders and performing other activities in the administration of the group policy~~].

(2) Nothing in this subtitle shall be construed to require an insurer to obtain an agent license. As used in this section, the term "insurer" does not include an insurer's officers, directors, employees, subsidiaries, or affiliates.

(3) A license as an agent or consultant shall not be required of the following:

- ***(a) An officer, director, or employee of an insurer or of an agent, provided that the officer, director or employee does not receive any commission or other valuable consideration on policies written or sold to insurer risks residing, located, or to be performed in this state and:***
  - ***1. The officer, director, or employee's activities are executive, administrative, managerial, clerical, or a combination of these, and are only indirectly related to the sale, solicitation, negotiation, or effectuation of insurance; or***
  - ***2. The officer, director, or employee's function relates to underwriting, loss control, inspection, or the processing, adjusting, investigating, or settling of a claim on a contract of insurance; or***
  - ***3. The officer, director, or employee is acting in the capacity of a special agent or agency supervisor assisting agents where the officer's, director's, or employee's activities are limited to providing technical advice and assistance to licensed agents and do not include the sale, solicitation, negotiation, or effectuation of insurance;***
  - ***4. The officer, director, or employee secures and furnishes information for the purpose of group life***

insurance, group property and casualty insurance, group annuities, group or blanket accident and health insurance, or for the purpose of enrolling individuals under plans, issuing certificates under plans, or otherwise assisting in administering plans; or performs administrative services related to a mass marketed property and casualty insurance, where no commission is paid to the individual for the service;

(b) ***An employer or association or its officers, directors, employees, or the trustees of an employee trust plan, to the extent that the employers, officers, employees, directors, or trustees are engaged in the administration or operation of a program of employee benefits for the employer's or association's own employees or the employees of its subsidiaries or affiliates, which program involves the use of insurance issued by an insurer, as long as the employers, associations, officers, directors, employees, or trustees are not in any manner compensated, directly or indirectly, by the company issuing the contracts;***

(c) ***Employees of insurers or organizations employed by insurers who are engaging in the inspection, rating, or classification of risks, or in the supervision of the training of agents who are not individually engaged in the sale, solicitation, negotiation, or effectuation of insurance;***

(d) ***An individual or business entity whose activities in this state are limited to advertising without the intent to solicit insurance in this state through communications in printed publications or other forms of electronic mass media whose distribution is not limited to residents of the state, provided that the individual or business entity does not sell, solicit, negotiate, or effectuate insurance that would insure risks residing, located, or to be performed in this state;***

(e) ***An individual or business entity who is not a resident of this state who sells, solicits, negotiates, or effectuates a contract of insurance for commercial property and casualty risks to an insured with risks located in more than one (1) state insured under that contract, provided that the individual or business entity is otherwise licensed as an agent to sell, solicit, negotiate, or effectuate that insurance in the state where the insured maintains its principal place of business and the contract of insurance insures risks located in that state;***

(f)) ***A salaried full-time employee who counsels or advises his or her employer relative to the insurance interest of the employer or of the subsidiaries or business affiliates of the employer, provided that the employee does not sell, solicit, negotiate, or effectuate insurance or receive a commission; or***

(g) ***Employees of an insurer or an agent who responds to requests from existing policy holders on exiting policies, provided that those employees are not directly compensated based on the volume of premiums that may result from these services, and provided that those employees do not sell, solicit, negotiate, or effectuate insurance.***

Section 7. KRS 304.9-105 is amended to read as follows:

An individual applying for an agent license shall make application to the commissioner on the uniform application and declare under penalty of refusal, suspension, or revocation of the license that the statements made in the application are true, correct, and complete to the best of the individual's knowledge and belief. Before approving the application, the commissioner shall find that the applicant[~~For the protection of the people of this state, the commissioner shall not issue, continue, or permit to exist, any permanent agent or solicitor license for or on behalf of any natural person unless the person demonstrates to the satisfaction of the commissioner that he is qualified therefor pursuant to the standards contained in this section and any other applicable section of this subtitle~~]:

(1) ***Is at least***[~~That the person has attained the age of~~] eighteen (18) years ***of age***[~~or more~~];

(2) [~~That the person~~]Has fulfilled the residence requirements as set forth in KRS 304.9-120;

(3) ***Has not committed any act that is a ground for denial, suspension, or revocation set forth in Section 34 of this Act;***

(4) [~~That the person~~]Is trustworthy, reliable, and of good reputation, evidence of which ***shall***[~~may~~] be submitted on behalf of the ***applicant***[~~person~~] in the form of:

  (a) A certificate by the insurer or agent by which or whom the ***applicant***[~~person~~] is to be appointed or employed, subject to the issuance of the license, stating that the insurer[~~ or agent~~] has either made, or caused to be made by responsible investigators, an investigation into the trustworthiness, reliability, and good reputation of the ***applicant***[~~person~~] together with a brief synopsis of the findings resulting therefrom; ***and***[~~or~~]

  (b) Three (3) letters of recommendation attesting to the trustworthiness, reliability, and good reputation of the person written on his ***or her*** behalf by persons not related to him ***or her*** by blood or marriage and one (1) of whom shall be a licensed resident insurance agent, which letters shall also state the extent of familiarity, both as to length of time and degree of knowledge, possessed by the writer with regard to both personal and business conduct of the person.

(5)[~~(4)~~][~~That the person~~]Is competent to exercise the license and has:

  (a) Successfully attained a general educational level equivalent to that required for graduation from an accredited high school in this state;

  (b) ***Except for limited lines licenses, completed a forty (40) hour prelicensing classroom course of study for the***

lines of authority for which the individual has applied. The commissioner shall promulgate administrative regulations to carry out the purpose of this section~~[Successfully completed specific courses of instruction in the field of insurance as the commissioner shall by regulation prescribe for a license when initially issued, which courses of instruction shall in the aggregate consist of or equal forty (40) hours of classroom instruction administered by or under the supervision of persons qualifying with and approved by the commissioner for the purpose and the successful completion of which shall be certified to the commissioner, on forms prescribed by him, by the person under whose supervision the instruction was administered. Programs of instruction provided by insurers authorized, or agent associations recognized, by the commissioner may be substituted for the specific courses of instruction prescribed by the commissioner when the programs have been reviewed and approved by the commissioner prior to their use, which approval shall not be unreasonably withheld if the programs of instruction are substantially similar in content and emphasis placed thereon to those prescribed by the commissioner]~~;

(c) ***Except for limited line licenses, successfully passed the examinations required by the commissioner for the lines of authority for which the individual has applied***~~[Successfully passed any written examination required by the commissioner for the license pursuant to KRS 304.9-160 unless exempt pursuant to KRS 304.9-170]~~; and

(d) ***Paid the fees set forth in KRS 304.4-010***~~[The requirements contained in this subsection and subsection (3) of this section shall not be applicable to the continuance of any license issued prior to June 17, 1978]~~.

(6)~~[(5)][That the person]~~Is financially responsible to exercise the license and has:

(a) *1.* Filed with the commissioner the certificate of an insurer authorized to write legal liability insurance in this state, that the insurer has and will keep in effect on behalf of the person a policy of insurance covering the legal liability of the licensed person as the result of erroneous acts or failure to act in his ***or her*** capacity as an insurance agent, and enuring to the benefit of any aggrieved party as the result of any single occurrence in the sum of not less than ten thousand dollars ($10,000) and fifty thousand dollars ($50,000) in the aggregate for all occurrences within one (1) year, and that the policy shall not be terminated unless at least thirty (30) days' prior written notice will have been given to the commissioner; or

2.~~[(b)]~~ Deposited with the commissioner cash, or a cash surety bond executed by an insurer authorized to write business in this Commonwealth, in the sum of ten thousand dollars ($10,000), which shall be subject to lawful levy of execution by any party to whom the ***licensee***~~[licensed person]~~ has been found to be legally liable as the result of erroneous acts or failure to act in his ***or her*** capacity as an~~[insurance]~~ agent; or

3.~~[(c)]~~ Had filed with the commissioner on his ***or her*** behalf, by an authorized insurer or group of affiliated insurers for which he ***or she*** is or is to become an exclusive agent, an agreement whereby the insurer or group of affiliated insurers agrees to assume responsibility, to the benefit of any aggrieved party, for legal liability of the licensed person as the result of erroneous acts or failure to act in his ***or her*** capacity as an insurance agent on behalf of the insurer or group of affiliated insurers in the sum of ten thousand dollars ($10,000) for any single occurrence and that the agreement shall not be terminated until the license is surrendered to the commissioner or at least thirty (30) days' prior written notice will have been given to the commissioner, whichever shall first occur; and

(b)~~[(d)]~~Agreed with the commissioner that if at any time notice is given to the commissioner that any policy filed ***in accordance with***~~[pursuant to]~~ paragraph (a) of this subsection, or agreement filed ***in accordance with***~~[pursuant to]~~ paragraph (c) of this subsection, is to be terminated and has not been replaced by another policy or agreement within the time established by regulations of the commissioner, or if any deposit ***in accordance with***~~[pursuant to]~~ paragraph (b) of this subsection be reduced through levy of execution and not replaced by any necessary additional deposit within the time established by regulations of the commissioner, any and all licenses held by the ***licensee***~~[person]~~ are revoked and shall be promptly surrendered to the commissioner without demand.

(7)~~[(6)][That the person,]~~To whom an agent's license has been or is to be issued, is the duly appointed agent of an authorized insurer, subject to issuance of the license.

The commissioner may require additional information or submissions for resident applications and may obtain any documents or information reasonably necessary to verify the information contained in an application.

~~[(7) That the person, to whom a solicitor's license has been or is to be issued, is regularly employed by a presently licensed resident agent, or is to be so employed subject to issuance of the license.~~

~~(8) Subsection (4)(b) of this section shall not apply to any person holding a limited license pursuant to KRS 304.9-230.~~

~~(9) No institution included in the Farm Credit System, as set forth and identified in 12 U.S.C. sec. 2002 (Public Law 92-181, sec. 1.2, Dec. 10, 1971, 85 Stat. 583) or any subsidiary or affiliate thereof doing business in this state, nor any officer or employee of any institution included in the Farm Credit System, or any subsidiary or affiliate thereof, may directly or indirectly be licensed to sell or solicit any type of insurance, except term life, credit life, accident, disability and health, and crop hail insurance in an amount appropriate to insure repayment of the loan.]~~

Section 8. KRS 304.9-107 is amended to read as follows:

The following persons shall be exempt from the licensing qualifications and requirements of KRS 304.9-105(4)(b) and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105(4)(c):

(1) Persons holding a certified life underwriter degree;~~[and]~~

(2) Persons holding a certified property and casualty underwriter degree***; and***

(3) Persons holding a certified insurance counselor designation.

Section 9. KRS 304.9-120 is amended to read as follows:

(1) Each applicant for license as ***a resident licensee shall be qualified to designate and shall designate Kentucky as the applicant's home state at the date of application for the license and shall maintain that eligibility throughout the duration of the license***~~[agent, who is an independent contractor agent compensated on a commission basis, and each applicant for license as a solicitor must be a bona fide resident of this state at the date of application for the license and must continue to be a resident of this state while so licensed]~~.

(2) In determining the good faith of an applicant's claim ***that Kentucky is the applicant's principal place of***~~[to such]~~ residence, the commissioner may give due consideration to the following:

- (a) The amount of time actually spent by the applicant within this state during the claimed residence period;
- (b) The circumstances of ***the applicant's***~~[such]~~ residence, that is, whether in a single or multiple family-type dwelling, or leased apartment, or permanent residential type; or in hotel, resort, motel, mobile home, or other temporary or transient type of dwelling or accommodation;
- (c) The circumstances of the applicant, his ***or her*** past history and activities, and the probability that he ***or she*** will continue as a resident of this state indefinitely into the future if the license were to be issued;
- (d) All other pertinent factors.

~~[(3) The requirements of subsection (1) of this section shall not apply as to:~~

- ~~(a) One employed to manage the insurance agency of a deceased licensed resident agent;~~
- ~~(b) An applicant or agent residing in any part of a city located partly within this state, if the other state in which the city is located in part has established a like exception to any residency requirement;~~
- ~~(c) Life or health insurance agents;~~
- ~~(d) Agents who are employees of the insurer or an affiliate of the insurer.~~

~~(4) The commissioner shall license as life insurance agent any person, firm, or corporation who is otherwise qualified therefor under this code, but who is not a resident of this state, if by the laws of the state or province of the residence of such person, firm, or corporation, residents of this state may be licensed in such state or province as nonresident life and general lines insurance agents and the commissioner may negotiate and enter into reciprocal arrangements with the insurance supervisory official of any other state or province under which the residence requirements of this subsection will be waived in favor of residents of such other state or province if like privileges in such other state or province are granted to residents of this state.~~

~~(5) If, under the laws of any other state or province, greater restrictions regarding residents and personal qualifications are imposed upon the licensing of residents of this state as agents than those imposed upon the licensing of nonresidents of this state under the laws of this state, then the commissioner may, when he considers such action necessary for the protection of domestic insurers or resident agents, impose such greater restrictions upon the licensing of residents of such state or province.]~~

Section 10. KRS 304.9-130 is amended to read as follows:

(1) A ***business entity acting as an agent is required to obtain an agent license. Application shall be made using the uniform business entity application or other application prescribed by the commissioner. Before approving the application, the commissioner shall find that:***

- ***(a) The business entity has paid the fees set forth in KRS 304.4-010;***
- ***(b) Each officer, director, and member of the business entity who is acting as an agent has obtained an agent's license;***
- ***(c) The business entity has disclosed to the insurance department the identity of all officers and directors and whether or not they are licensed as agents; and***
- ***(d) The business entity has designated a licensed agent responsible for the business entity's compliance with the insurance laws and regulations of this state***~~[firm or corporation may be licensed as an agent. If a firm, each general partner and each other individual to act for the firm under the license, and if a corporation each individual to act for the corporation under the license, shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee]~~.

(2) ***The licensee shall promptly notify the commissioner of all changes among its members, directors, officers, and other individuals designated in or registered as to the license***~~[An individual who does not meet the residence requirements as provided in KRS 304.9-120 shall not be so named in or registered as to such a license and shall not have the right to~~

~~exercise the license powers]~~.

(3) ***Each agent authorized to act for the business entity shall be named in or registered with the commissioner as to the license, and shall qualify as though an individual licensee***~~[A license shall not be issued to a firm or corporation unless it maintains a place of business in this state, and the transaction of business under the license is within the purposes stated in the firm's partnership agreement or the corporation's articles]~~.

(4) The ***commissioner may obtain any documents or information reasonably necessary to verify the information contained in an application***~~[licensee shall promptly notify the commissioner of all changes among its members, directors, officers and other individuals designated in or registered as to the license]~~.

Section 11. KRS 304.9-140 is amended to read as follows:

(1) ***Unless denied a license in accordance with this subtitle, a nonresident individual or business entity shall receive an agent license if:***

(a) The applicant is currently licensed and in good standing in his or her home state;

(b) The applicant has submitted the proper request for license and has paid the fees required by KRS 304.4-010 and administrative regulations;

(c) The applicant has submitted or transmitted to the commissioner the application for a license that the applicant submitted to his or her home state or a completed uniform business entity application or application prescribed by the commissioner;

(e) The applicant has complied with his or her home state's continuing education requirements;

(f) The applicant's home state awards nonresident licenses to residents of this state on the same basis; and

(g) The applicant has complied with any other applicable legal requirements~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a life insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement]~~.

(2) ***The commissioner may verify the applicant's license status through the database maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries***~~[Notwithstanding the provisions of KRS 304.9-120, a nonresident of this state may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105 except as to the residence requirement]~~.

(3) ***A nonresident licensee who changes his or her home state to a state other than Kentucky shall file a change of address and provide certification from the new home state within thirty (30) days of the change of home state. No fee or license application is required***~~[Nonresidents of this state, other than those referred to in subsection (1) of this section, may be licensed as insurance agents in this state without taking an examination if:~~

~~(a) A written examination is required of applicants for an insurance agent's license in such other state.~~

~~(b) The appropriate official of such other state certifies that the applicant holds a currently valid license as an insurance agent in such other state and either passed such written examination or was the holder of an insurance agent's license prior to the time such written examination was required.~~

~~(c) In such other state, a resident of this state is privileged to procure an insurance agent's license upon the foregoing conditions and without discrimination as to fees or otherwise in favor of the residents of such other state]~~.

(4) Notwithstanding ***any other provisions of this chapter, on or after July 1, 2002, an individual licensed as a surplus lines broker in his or her home state shall receive a nonresident surplus lines broker license by meeting the requirements of subsection (1) of this section. Except as to subsection (1) of this section, nothing in this section otherwise amends or supersedes any provision of Subtitle 10 of this chapter***~~[the provisions of KRS 304.9-120, a nonresident of this state who is a full-time employee of an insurer or an affiliate of an insurer, and not compensated on a commission basis, may be licensed as a general lines insurance agent upon compliance with the provisions of KRS 304.9-105, except as to the residence requirement, and may act as an agent in Kentucky under said license, provided that such insurer maintains a place of business in this state]~~.

(5) Notwithstanding any other provision of this subtitle, an individual licensed as a limited lines agent in his or her home state shall receive a nonresident limited lines agent license in accordance with subsection (1) of this section, granting the same scope of authority as granted under the license issued by the agent's home state.

Section 12. KRS 304.9-150 is amended to read as follows:

(1) Application for~~[an agent or solicitor license shall be made to the commissioner by an insurer. The application for]~~ a consultant license shall be made by the applicant. Applications under this subsection shall be signed and sworn to by the applicant before a notary public or other person authorized by law to take acknowledgments of deeds.

(2) The form of application shall require full answers to any questions as may be reasonably necessary to determine the applicant's identity, residence, personal history, business record, financial responsibility, experience in insurance, purpose for which the license is to be used, and other facts as required by the commissioner to determine whether the applicant meets the applicable qualifications for the license applied for.

(3) [~~If for an agent's or consultant's license, ~~]The application shall state the kinds of insurance proposed to be transacted[~~, and if an agent's, the application shall be deemed an appointment of the applicant as agent for the kinds of insurance, by an authorized insurer, subject to issuance of the license~~].

(4) [~~If for solicitor's license, the application shall be accompanied by written appointment of the applicant as solicitor by a licensed resident general lines agent, subject to issuance of the license.~~

~~(5) If the applicant for an agent's license is a firm or corporation, the application shall show in addition, the names of all members, officers, and directors, and shall designate each individual who is to exercise the license powers; and each individual shall furnish information with respect to himself, as part of the application, as though for an individual license.~~

~~(6) If for license as agent, or solicitor, or consultant, ~~]The application shall also show whether the applicant was ever previously licensed to transact any kind of insurance in this state or elsewhere; whether any license was ever refused, suspended, revoked, or renewal or continuance denied, whether any insurer, general agent, agent, claims applicant is indebted to it, and if so, the details thereof; whether applicant has ever had an agency contract canceled, and the facts thereof[~~; and, if applicant is a married person, like information with respect to the spouse.~~

~~(7) As part of the application for agent's or solicitor's license, the commissioner shall require the certificate of the insurer or agent, proposed to be represented, relative to applicant's identity, residence, experience, or instruction as to the kinds of insurance to be transacted, trustworthiness, and reputation~~].

(5)[~~(8)~~]All applications shall be accompanied by the applicable license fee[~~, appointment fee,~~] and examination fee, in the respective amounts stated in KRS 304.4-010.

(6)[~~(9)~~]No applicant for license under this subtitle shall willfully misrepresent or withhold any fact or information called for in the application form or in connection therewith.

Section 13. KRS 304.9-160 is amended to read as follows:

(1) ***An individual applying for any license under this subtitle requiring an examination shall pass a written examination***[~~After completion and filing of application with the commissioner as required by KRS 304.9-150, the commissioner shall subject each applicant for license as agent, or solicitor,~~] unless ***exempt***[~~exempted therefrom~~] under KRS 304.9-170***. Examinations required by this section shall be developed and conducted in accordance with administrative regulations promulgated***[~~, to a written examination as to his competence to act as such agent or solicitor, which he must personally take and pass to the satisfaction of the commissioner prior to having his application for a license considered~~] by the commissioner.

(2) ***The commissioner may make arrangements, including contracting with an outside testing service, for administering examinations and collecting the nonrefundable fee set forth in KRS 304.4-010***[~~If the applicant is a firm or corporation the examination shall be so taken by each individual who is to be named in or registered as to the license, as provided in KRS 304.9-130~~].

(3) ***Each individual applying for an examination shall remit a nonrefundable fee as prescribed by the commissioner as set forth in KRS 304.5-010***[~~examination of an applicant for an agent's license shall cover all the kinds of insurance which the appointing insurer or insurers are authorized to transact in this state; except as to a limited license provided for under KRS 304.9-230 and except that an applicant to be licensed as to health insurance only or mortgage guaranty insurance only shall not be examined as to other kinds of insurance. The commissioner shall permit applicants appointed by a life insurer authorized in this state to issue kinds of insurance other than life and health insurance and annuities, as provided in KRS 304.3-110, to take examinations covering either the other kinds of insurances, or covering life and health insurance and annuities only, or both. In the case of life insurers authorized to issue variable annuities in this state, the commissioner may require applicants appointed by such insurers to solicit such contracts in this state, in addition to completing examinations qualifying for a life agent's license, to successfully pass a supplemental examination covering the subject of variable annuities in order to solicit, place or procure variable annuity contracts in this state~~].

(4) ***An individual who fails to appear for the examination as scheduled or fails to pass the examination, shall reapply for an examination and remit all required fees and forms before being rescheduled for another*** examination[~~ of an applicant for a solicitor's license shall cover all kinds of insurance, other than life or health insurance, as to which the appointing agent is licensed.~~

~~(5) Written application for the examination shall be filed with the commissioner by or on behalf of the applicant prior to the date fixed for the examination, as provided in KRS 304.9-190, and shall be accompanied by the fee for such application as specified in KRS 304.4-010~~].

Section 14. KRS 304.9-170 is amended to read as follows:

KRS 304.9-160 shall not apply and no[~~ such~~] examination shall be required of:

(1) Any applicant for license covering ***any one of authority***[~~the same kind or kinds of insurance as~~] to which the applicant was licensed under a similar license in ***Kentucky***[~~this state~~], other than a temporary license, within the twenty-four (24) months next preceding date of application, unless the previous license was revoked[~~,~~] ***or*** suspended[~~, or continuation thereof refused~~] by the commissioner for reasons other than failure to maintain financial responsibility ***or meeting***

continuing education requirements as required by KRS 304.9-105 ***and Section 24 of this Act***.

(2) ***An individual who applies for an agent license in Kentucky who was previously licensed for the same lines of authority in another state shall not be required to complete any prelicensing education or examination. This exemption is only available if the applicant is currently licensed in the other state or if the application is received within ninety (90) days of the cancellation of the applicant's previous license and if the prior state issues a certification that, at the time of cancellation, the applicant was in good standing in that state or the state's database records, maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries, indicate that the agent is or was licensed in good standing for the line of authority requested***[~~In the commissioner's discretion, any applicant who has been licensed under a similar license in another state within twelve (12) months prior to his application for license in this state, and who files with the commissioner the certificate of the public official having supervision of insurance in the other state as to applicant's license and good conduct in the state~~].

(3) ***An individual licensed as an agent in another state within the last twelve (12) months who moves to Kentucky shall make application within ninety (90) days of establishing legal residence to become a resident licensee. No prelicensing education or examination shall be required of that applicant to obtain a license for any line of authority previously held in the prior home state except where the commissioner determines otherwise by administrative regulation***[~~Persons representing public carriers who, in the course of their representation, solicit or sell insurance incidental to the transportation of persons or to the storage or transportation of property~~].

(4)[~~Persons soliciting or negotiating credit life, credit health and accident, credit personal property, and credit unemployment insurance contracts.~~

~~(5)~~] An applicant for an agent's license who is currently licensed as a solicitor or as a consultant as to the same ***line of authority***[~~kind or kinds of insurance~~], or has been so licensed within twelve (12) months next preceding the date of application for the license, unless the previous license was revoked or suspended or continuation thereof refused by the commissioner for reasons other than failure to maintain financial responsibility as required by KRS ***304.9-330***[~~304.9-105~~].

(5)[~~(6)~~]Any applicant for license covering the same ***line of authority***[~~kind or kinds of insurance~~] as to which that applicant shall have held a valid license issued ***in accordance with***[~~pursuant to~~] this subtitle or other applicable Kentucky law which was surrendered, ***in accordance with***[~~pursuant to~~] KRS 304.2-080 or other applicable law, in order to accept employment with the Department of Insurance, provided, however, that the applicant shall apply for relicensing within one (1) year of the date of termination of his ***or her*** employment with the Department of Insurance.

[~~(7) Persons soliciting or negotiating mechanical breakdown insurance contracts.~~]

Section 15. KRS 304.9-180 is amended to read as follows:

(1) ***The***[~~Each~~] examination ***shall test the***[~~for license as agent, consultant, or solicitor shall reasonably test the applicant's competence and his~~] knowledge ***or relevant skills and abilities of the individual concerning the lines of authority for which application is made,***[~~of the kinds of insurance, policies and transactions to be handled under the license applied for, of~~] the duties and responsibilities of[~~ such~~] a licensee, and[~~ of~~] the pertinent insurance laws ***and administrative regulations*** of this state.

(2) The commissioner shall make available to applicants for license, printed information as to the general scope of, and principal subjects to be covered by, the examination for a particular license, together with information as to published books and other reference sources which may be studied by the applicant to prepare for the examination; but the commissioner shall not furnish lists of examination questions and examination questions shall not be selected from lists[~~ thereof~~] known to the commissioner to have been furnished applicants.

Section 16. KRS 304.9-190 is amended to read as follows:

(1) The commissioner shall provide a reasonable opportunity to all applicants to take the ***examinations***[~~examination~~] required by ***this subtitle***[~~KRS 304.9-160~~]. Examinations shall be held at least monthly at places in this state designated by the commissioner reasonably accessible to applicants, and at least weekly at Frankfort.

(2)[~~All the kinds of insurance which the applicant proposes to transact under the license applied for shall be included in the same examination.~~

~~(3)~~] The commissioner shall give, conduct and grade all examinations in a fair and impartial manner and without unfair discrimination as between individuals examined.

(3)[~~(4)~~]The commissioner may require a reasonable waiting period before reexamination of an applicant who has failed to pass a previous examination covering the same ***line***[~~kind or kinds~~] of ***authority***[~~insurance~~].

Section 17. KRS 304.9-200 is amended to read as follows:

(1) ***An agent license shall remain in effect unless terminated, canceled, expired, revoked, or suspended as long as the fees set forth in KRS 304.4-010 and all administrative regulations promulgated thereunder are paid and any applicable continuing education requirements for individual agents are met by the due date.***

(2) An individual agent who allows his or her license to lapse may, within twelve (12) months from the due date of the renewal fee, reinstate the same license without the necessity of passing a written examination. However, a penalty may

be imposed as provided in KRS 304.99-020.

(3) A licensed agent who is unable to comply with license renewal procedures due to military service, a long-term medical disability, or some other extenuating circumstance may request a waiver of those procedures. The agent may also request a waiver of any examination requirement or any other fine or sanction imposed for failure to comply with renewal procedures.

(4) The license shall contain the licensee's name, address, personal identification number, and the date of issuance, the lines of authority, and any other information the commissioner deems necessary.

(5) Licensees shall inform the commissioner in writing in a format acceptable to the commissioner of a change of address or change of name within thirty (30) days of the change.

(6) After completion of application for a license, and the taking and passing of any examination required under this subtitle, the commissioner shall promptly consider the same. If the commissioner finds that the applicant has fully met the requirements ***for licensure***[~~therefor~~], the commissioner shall promptly issue the license to the applicant; otherwise, the commissioner shall refuse to issue the license and promptly notify the applicant and the appointing insurer or agent of ***the***[~~such~~] refusal, stating the grounds thereof.

(7)[~~(2)~~]If a license is refused, the commissioner shall promptly refund the appointment fee tendered with the license application. All other fees for application for agent, consultant,[~~ solicitor,~~] or adjuster licenses shall be deemed earned when paid and shall not be refundable.

Section 18. KRS 304.9-210 is amended to read as follows:

(1)[~~ The license shall state the name and address of the licensee, date of issue, general conditions relative to expiration or termination, the kind or kinds of insurance covered by the license, if applicable, and such other conditions as the commissioner deems proper for inclusion in the license certificate. No license shall be issued in a trade name unless the name has been duly registered or filed as required by law.~~

~~(2)~~] The license of an agent shall not specify the name of any particular insurer by which the licensee is appointed as agent[~~, except as provided by subsection (5) of this section, as to limited licenses,~~] and the licensee may[~~, subject to KRS 304.9-220 as to life agents,~~] represent as ***an***[~~such~~] agent under the one ***(1)*** license as many insurers as may appoint ***the agent***[~~him therefor~~] in accordance with this subtitle.

[~~(3) The license of a solicitor shall show the name and address of the employer agent.~~]

(2)[~~(4)~~]The license of a consultant shall show whether the license is for a "general lines consultant" or a "life consultant."

[~~(5) Each limited license issued pursuant to KRS 304.9-230 shall show the name of the insurer so represented, and a separate license shall be required as to each such insurer.~~]

Section 19. KRS 304.9-230 is amended to read as follows:

(1) The commissioner may issue ***in accordance with Section 4 of this Act, an agent's license with the line of authority***[~~to an applicant qualified therefor, including, but not~~] limited[~~ to, financial responsibility pursuant to KRS 304.9-105(5), under this code limited agent's licenses~~] as follows:

(a) ***To***[~~Covering~~] motor vehicle physical damage insurance only;

(b) To[~~ persons representing~~] common ***carrier insurance, incidental to the transportation of persons or to the storage or transportation of property only, and solicited or sold by persons representing common carriers in the course of that representation***[~~carriers, as provided in KRS 304.9-170~~];

(c) ***To limited line credit insurance***[~~Covering~~] only[~~ insurance against loss or damage resulting from failure of debtors to pay their obligations to the insured~~];

(d)[~~ Covering only credit life, credit health, credit personal property, and credit unemployment insurance;~~

~~(e) Covering agents writing mortgage guaranty insurance only;~~

~~(f) Covering agents:~~

~~1. Writing industrial life insurance only; or~~

~~2. Licensed by an insurer issuing policies having a face amount not in excess of five thousand dollars ($5,000) on the debit plan, if the agent actually collects and services a debit for the insurer;~~

~~(g) Covering agents writing only policies commonly referred to as mortgage redemption insurance, which consist of reducing term life insurance and accident and health insurance, if any, contained therein or sold in conjunction therewith;~~

~~(h)~~] ***To***[~~Covering agents writing~~] crop-hail insurance only;[~~ and~~]

(e)[~~(i)~~] ***To***[~~Covering agents writing~~] mechanical breakdown insurance only***; and***

(f) To other limited line insurance only, as specified by the commissioner through the promulgation of administrative regulations.

(2) The ***commissioner shall promulgate administrative regulations to establish the requirements for prelicensing courses of instruction and examination***~~[fee]~~ for ***each limited lines license***~~[licenses is as specified in KRS 304.4-010]~~.

Section 20. KRS 304.9-260 is amended to read as follows:

(1) Each~~[solicitor,]~~ consultant, adjuster, and surplus lines broker license issued under this code shall continue in force until expired, suspended, revoked, or otherwise terminated, but subject to payment to the commissioner at his ***or her*** office in Frankfort on or before March 31 of the applicable continuation fee for any appointment, or license in the case of a limited license, not terminated on or prior to December 31 of the preceding calendar year as stated in KRS 304.4-010, accompanied by written request for continuation. Request for continuation shall be made as follows:

(a) As to adjuster and surplus lines broker licenses, request made and signed by the licensee.

(b)~~[As to solicitor licenses, request made and signed by the employer as to whom licensed.~~

~~(c)]~~ As to limited licenses issued under KRS 304.9-230, request made and signed by the insurer so represented.

(2) Biennially, before January 31, the department shall distribute to each respective licensee, employer, and insurer a listing of the names and addresses of that person's licensees referred to in subsection (1) whose appointments were in effect during the preceding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall continue in effect as to the kinds of insurance or classifications~~[thereof]~~ for which the respective licensees are currently appointed and subject to payment of the fees specified under KRS 304.4-010. On or before March 31, each licensee, employer, or insurer shall submit the continuation of appointment fee, as specified in KRS 304.4-010, for each appointment or license not terminated on or prior to December 31 of the preceding calendar year. Any license referred to in subsection (1) of this section as to which request for continuation and fee are not so received by the commissioner shall be deemed to have expired at midnight on March 31; except that any request and fees received by the commissioner after March 31 and prior to the next following June 30 may be accepted and effectuated by the commissioner, in his ***or her*** discretion, if accompanied by a penalty as provided in Subtitle 99 of this chapter.

(3) The license of an agent shall continue in force as long as there is in effect as to the licensee, as shown by the commissioner's records, an appointment or appointments as agent of authorized insurers covering collectively all of the ***lines of authority***~~[kinds of insurance or classifications thereof]~~ included in the agent's license. Upon termination of all of the licensee's~~[agency]~~ appointments as to a particular ***line of authority***~~[kind of insurance or classification thereof]~~ and failure to replace an appointment within sixty (60) days thereafter, the license shall~~[thereupon]~~ expire and terminate as to the ***line of authority***~~[kind or classification of insurance]~~ and the licensee shall promptly deliver his ***or her*** license to the commissioner for reissuance, without fee or charge, as to the ***line of authority***~~[kinds of insurance or classifications thereof]~~, if any, covered by the licensee's remaining agency appointments. Upon termination of all of the licensee's~~[agency]~~ appointments ***and failure to obtain a new appointment within sixty (60) days,*** the license shall~~[forthwith]~~ terminate ***and be surrendered to the commissioner***.

(4) As a condition to or in connection with the continuation of any agent ***or***~~[,]~~ consultant~~[, or solicitor]~~ license, the commissioner may require the licensee to file with him ***or her*** information relative to use made of the license during the next preceding calendar year and especially as to whether the license has been used principally for the writing of controlled business, as defined in KRS 304.9-100.

(5) As a condition to or in connection with the continuation of any agent~~[or solicitor]~~ license, the commissioner shall require continuous demonstration of financial responsibility as required by KRS 304.9-105***(6)***~~[(5)]~~, and any license shall terminate and be surrendered to the commissioner, as provided~~[for]~~ therein, if and when ***the***~~[such]~~ demonstration becomes impaired whether or not valid appointments under the license are then existent.

(6) Except as to the provisions of subsection (5) hereof, this section does not apply to temporary licenses issued under KRS 304.9-300.

Section 21. KRS 304.9-270 is amended to read as follows:

(1) Each insurer appointing an agent in this state shall ***obtain approval of the appointment from the commissioner by filing***~~[file]~~ with the commissioner the ***notice of*** appointment in writing, specifying the kinds of insurance or classifications thereof to be transacted by the agent for the insurer, and submit the license fee with the license application and the appointment fee with every appointment~~[thereafter]~~, or license fee in the case of limited licenses, as specified in KRS 304.4-010.

(2) No agent shall claim to be an agent or representative of, or in any way imply a contractual relationship with, a particular insurer, or place applications for insurance with an insurer unless the agent becomes an appointed agent of the insurer and the agent's appointment has been approved by the commissioner.

(3) An agent may act as a representative of and place insurance with an insurer without first obtaining approval of the appointment by the commissioner for a period of thirty (30) days from the date the first insurance application is executed by the agent subject to the following criteria:

(a) The agent has filed with the commissioner, and kept in force, evidence of financial responsibility in the sum of

not less than one million dollars ($1,000,000) per occurrence, and the sum of two million dollars ($2,000,000) in the aggregate, for all occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or any combination of these evidences of financial responsibility. Such a policy, bond, deposit, or combination shall not be terminated unless at least thirty (30) days prior written notice is given to the licensee and the commissioner.

(b) If the agent does not receive from the insurer acknowledgment that the agent's appointment has been approved by the commissioner within thirty (30) days from the date the first insurance application is executed, the agent shall immediately discontinue acting as an agent on behalf of the insurer until acknowledgment is received.

(4) (a) The insurer shall, no later than forty-five (45) days from the date the agency contract is executed or the first insurance application is submitted by an agent, whichever is earlier, file with the commissioner a written notice of appointment on a form prescribed by the commissioner.

(b) If there is no executed agency contract, the insurer shall also mail to the agent, within the same forty-five (45) day period specified in paragraph (a) of this subsection, a copy of the notice of appointment form filed with the commissioner.

(5) Within fifteen (15) days of receipt of the notice of appointment, the commissioner shall determine and notify the insurer whether the agent is eligible for appointment. If the agent's license is in good standing and no other grounds exist to deny the appointment, the commissioner shall approve the appointment.

(6) Subject to continuation by the insurer as provided in subsection *(4)*~~[(3)]~~ of this section, each appointment shall remain in effect until the agent's license is revoked or otherwise terminated, unless the insurer earlier terminates the appointment as provided in KRS 304.9-280.

(7)~~[(3)]~~Biennially, before January 31, the department shall distribute to each insurer a listing of the names and addresses of that insurer's agents whose appointment, or licenses in the case of limited licenses, were in effect during the proceeding calendar year and who were not terminated on or prior to December 31 of that calendar year. Any appointment or license not expressly terminated shall remain in effect as to the kinds of insurance or classifications thereof for which the respective agents are currently appointed, and subject to the fees specified under KRS 304.4-010. On or before March 31, each insurer shall submit the continuation of appointment fee, or license fee in the case of limited licenses, as specified in KRS 304.4-010, for each appointment not terminated on or prior to December 31 of the preceding calendar year. Any appointment or license not expressly terminated shall continue, unless otherwise terminated, canceled, suspended, or revoked by the department of insurance.

Section 22. KRS 304.9-280 is amended to read as follows:

(1) Subject to the agent's contract rights, if any, an insurer may terminate an~~[agency]~~ appointment at any time. However, if any~~[agency]~~ appointment is not terminated on or prior to December 31, then on January 1 the fees designated shall be due for submission as provided in KRS 304.9-270.~~[The insurer shall promptly give written notice of such termination and the effective date thereof to the commissioner and to the agent where reasonably possible. The commissioner may require of the insurer reasonable proof that the insurer has given notice to the agent where reasonably possible.]~~

(2) *An insurer or authorized representative of the insurer that terminates the appointment, employment, contract, or other insurance business relationship with a licensee shall notify the commissioner within fifteen (15) days following the effective date of the termination, using a form prescribed by the commissioner, if the reason for termination is one (1) of the reasons set forth in Section 34 of this Act or if the insurer has knowledge the licensee was found by a court, government body, or self-regulatory organization authorized by law to have engaged in any of the activities in Section 34 of this Act. Upon the written request of the commissioner the insurer shall provide additional information, documents, records, or other data pertaining to the termination or activity of the licensee.*

(3) An insurer or authorized representative of the insurer that terminates the appointment of a licensee for any reason not set forth in subsection (2) of this section, shall notify the commissioner within thirty (30) days following the effective date of the termination, using a form prescribed by the commissioner. Upon written request of the commissioner, the insurer shall provide additional information, documents, records, or other data pertaining to the termination.

(4) The insurer or the authorized representative of the insurer shall promptly notify the commissioner in a form acceptable to the commissioner if, upon further review or investigation, the insurer discovers additional information that would have been reportable to the commissioner in accordance with subsection (2) of this section had the insurer known of its existence.

(5) (a) Within fifteen (15) days after making the notification required by subsection (3) of this section the insurer shall mail a copy of the form to the licensee at his or her last known address by first-class mail. Within fifteen (15) days after making the notification required by subsection (2) of this section, the insurer shall provide a copy of the form to the licensee at his or her last known address by certified mail, return receipt requested, postage prepaid, or by overnight delivery using a nationally recognized carrier.

(b) Within thirty (30) days after the licensee has received a copy of the form, the licensee may file written comments

concerning the substance of the notification with the commissioner. The licensee shall, by the same means, simultaneously send a copy of the comments to the reporting insurer, and the comments shall become a part of the commissioner's file and accompany every copy of a report distributed or disclosed for any reason about the licensee as permitted under subsection (7)(c) of this section.

(6) (a) 1. In the absence of actual malice, an insurer, the authorized representative of the insurer, a licensee, the commissioner, or their respective representatives, or employees, or an organization of which the commissioner is a member and that compiles the information and makes it available to other insurance commissioners, or regulatory or law enforcement agencies, shall not be subject to civil liability, and a civil cause of action of any nature shall not arise against these entities or their respective representatives or employees, as a result of:

a. Any statement or information required by or provided in accordance with this section;

b. Any information relating to any statement that may be requested in writing from an insurer or licensee by the commissioner; or

c. A statement by a terminating insurer or licensee to an insurer or licensee that is limited solely and exclusively to whether a termination for cause under subsection (2) of this section was reported to the commissioner.

2. The propriety of any termination for cause under subsection (2) of this section shall be certified in writing by an officer or authorized representative of the insurer or licensee terminating the relationship.

(b) In any action brought against an individual, business entity, or organization that may have immunity under subsection (6)(a) of this section for making any statement required by this section or providing any information relating to any statement that may be requested by the commissioner, the party bringing the action shall plead specifically in any allegation that subsection (6)(a) of this section does not apply because the individual, business entity, or organization making the statement, or providing the information did so with actual malice.

(c) Subsection (6)(a) or (6)(b) of this section shall not abrogate or modify any existing statutory or common law privileges or immunities.

(7) (a) 1. Any document, material, or other information in the control or possession of the department that is furnished by an insurer, licensee, or an employee, or representative acting on behalf of the insurer or licensee, or obtained by the commissioner in an investigation in accordance with this section:

a. Shall be confidential by law and privileged;

b. Shall not be subject to Kentucky Open Records Act, KRS 61.870 to 61.884;

c. Shall not be subject to subpoena; or

d. Shall not be subject to discovery or admissible in evidence in any private civil action.

2. However, the commissioner is authorized to use the documents, materials, or other information referred to in subsection (7)(a)1. of this section in the furtherance of any regulatory or legal action brought to carry out the commissioner's duties.

(b) Neither the commissioner nor any individual who received documents, materials, or other information while acting under the authority of the commissioner, shall be permitted or required to testify in any private civil action concerning any confidential documents, materials, or information subject to paragraph (a) of this subsection.

(c) In order to assist in the performance of the commissioner's duties, the commissioner:

1. May share documents, materials, or other information, including the confidential and privileged documents, materials, or information subject to paragraph (a) of this subsection, with other state, federal, and international regulatory agencies, with the National Association of Insurance Commissioners, its affiliates, or subsidiaries, and with state, federal, and international law enforcement authorities, provided that the recipient agrees to maintain the confidentiality and privileged status of the documents, materials, or other information;

2. May receive documents, materials, or information, including otherwise confidential and privileged documents, materials, or information, from the National Association of Insurance Commissioners, its affiliates or subsidiaries, and from regulatory and law enforcement officials of other foreign or domestic jurisdictions, and shall maintain as confidential or privileged any documents, materials, or information received with notice or the understanding that it is confidential or privileged under the laws of the jurisdiction that is the source of the documents, materials, or information; and

3. May enter into agreements governing sharing and use of information consistent with this subsection.

(d) No waiver of any applicable privilege or claim of confidentiality in the documents, materials, or information shall occur as a result of disclosure to the commissioner or of sharing as authorized in this subsection.

(e) Nothing in this subtitle shall prohibit the commissioner from releasing final, adjudicated actions including for cause terminations that are open to public inspection in accordance with the Kentucky Open Records Act , KRS 61.870 to 61.884, to a database or other clearinghouse service maintained by the National Association of Insurance Commissioners, its affiliates, or subsidiaries[~~Accompanying the notice of termination given the commissioner, the insurer shall file with him a statement of all the facts constituting the cause, if any, for termination. Any information, document, record, or statement so disclosed or furnished to the commissioner shall be deemed an absolutely privileged communication and shall not be admissible as evidence in any action or proceeding unless consented to in writing by the insurer.~~

~~(3) An agent terminating the employment as solicitor of a licensed solicitor shall give like notice of the termination to the commissioner, and like information as to the reasons for the termination, with like status as privileged communication unless the privilege is waived in writing by the agent~~].

Section 23. KRS 304.9-290 is amended to read as follows:

Following termination of an[~~ agency~~] appointment[~~ of a general lines agent,~~] and subject to the terms of any agreement between the agent and the insurer, the agent may continue to service, and receive from the insurer commissions or other compensation relative to, business written by him ***or her*** for the insurer during the existence of the appointment, so long as the agent continues to be licensed as to the kinds of insurance involved.

Section 24. KRS 304.9-295 is amended to read as follows:

(1) This section shall apply to ***individuals***[~~resident persons~~] licensed as agents[~~ or solicitors for the following kinds of insurance: life, health, property, casualty, or surety~~].

(2) This section shall not apply to:

(a)[~~ Persons holding licenses for which no examination is required by KRS 304.9-170 except that persons exempted from examination by KRS 304.9-170(1) and (2) shall be subject to this section;~~

~~(b)~~] ***Licensees***[~~Persons~~] holding limited ***lines of authority***[~~or restricted~~] licenses, as exempted by the commissioner ***in accordance with Section 19 of this Act***;

(b)[~~(c)~~]***Licensees***[~~Persons~~] not licensed for one (1) full year prior to the end of a continuing education biennium as described in subsection (3) of this section;

(c)[~~(d)~~]***Licensees***[~~Persons~~] holding nonresident licenses who have met the continuing education requirements of their ***home*** state[~~ of domicile~~] and whose ***home*** state ***gives credit to Kentucky resident agents on the same basis***[~~of domicile has a current continuing education reciprocal agreement with the commissioner~~]; or

(d)[~~(e)~~]***Licensees***[~~Persons~~] maintaining their licenses for the sole purpose of receiving renewals or deferred commissions and providing the department with a supporting affidavit.

(3) The licensees specified in subsection (1) of this section and not exempt under subsection (2) of this section who hold a license, shall satisfactorily complete a minimum of twenty-four (24) hours of continuing education courses, of which twelve (12) ***shall***[~~must~~] be classroom hours, during each continuing education biennium. A continuing education biennium shall begin on July 1 and end on June 30 two (2) years later.

(4) Only continuing education courses approved by the commissioner ***shall***[~~may~~] be used to satisfy the continuing education requirement of subsection (3) of this section.

(a) The continuing education courses which meet the commissioner's standards for continuing education requirements are:

1. Any part of the Life Underwriter Training Council life course curriculum;
2. Any part of the Life Underwriter Training Council health course curriculum;
3. Any part of the American College Chartered Life Underwriter diploma curriculum;
4. Any part of the American Institute for Property and Liability Underwriters' chartered property and casualty underwriter profession designation program;
5. Any part of the Insurance Institute of America's programs;
6. Any part of the certified insurance counselor program;
7. Any insurance related course taught at an accredited college or university, if ***the***[~~such~~] course is approved by the commissioner;
8. Any course of instruction or seminar developed or sponsored by any authorized insurer, recognized agent association, recognized insurance trade association, or any independent program of instruction, if approved by the commissioner;
9. Any correspondence course approved by the commissioner***; and***
10. ***Any course in accordance with provisions of reciprocal agreements the commissioner enters with other states***.

(b) The commissioner shall prescribe the number of hours of continuing education credit for each continuing education course approved ***in accordance with***[~~pursuant to~~] this subsection. ***Continuing education courses submitted in accordance with a reciprocal agreement shall be approved according to the provisions of the reciprocal agreement.***

(c) If a continuing education course requires successful completion of a written examination, no continuing education credit shall be given to ***licensees***[~~persons~~] who do not successfully complete ***the***[~~such~~] written examination.

(d) The fee for filing continuing education courses for approval by the commissioner shall be as specified in Subtitle 4 of KRS Chapter 304.

(e) For continuing education courses of reciprocal states, continuing education providers shall be approved in accordance with the provisions of the reciprocal agreements.

(5) ***An individual***[~~A person~~] teaching any approved continuing education course shall qualify for the same number of hours of continuing education credit as would be granted to a ***licensee***[~~person~~] taking and satisfactorily completing ***the***[~~such~~] course.

(6) Excess credit hours accumulated during any continuing education biennium may be carried forward. The commissioner may, by regulation, limit the number of hours carried forward.

(7) For good cause shown, the commissioner may grant an extension of time during which the continuing education requirement of subsection (3) of this section may be completed, but ***the***[~~such~~] extension of time shall not exceed two (2) years. What constitutes good cause for ***the***[~~such~~] extension of time rests within the discretion of the commissioner.

(8) Every ***licensee***[~~person~~] subject to this section shall furnish to the commissioner written certification as to the continuing education courses satisfactorily completed by ***the licensee***[~~such person~~]. ***The***[~~Such~~] certification shall be signed by or on behalf of the organization sponsoring the continuing education course. ***The***[~~Such~~] certification shall be on a form prescribed by the commissioner.

(9) The license of any ***individual***[~~person~~] failing to comply with the continuing education requirement of subsection (3) of this section and who has not been granted an extension of time to comply ***in accordance with***[~~pursuant to~~] subsection (7) of this section shall ***terminate and shall*** be[~~ canceled and~~] promptly surrendered to the commissioner without demand.

(10) The license of any ***individual***[~~person~~] subject to the continuing education requirement shall be suspended or revoked, a civil penalty imposed[~~ in lieu thereof~~], or both, ***in accordance with***[~~pursuant to~~] KRS 304.9-440 if ***the individual***[~~such person~~] submits to the commissioner a false or fraudulent certificate of compliance with the continuing education requirement.

Section 25. KRS 304.9-300 is amended to read as follows:

(1) The commissioner may issue a temporary license ***for a period not to exceed one hundred eighty (180) days without requiring an examination or prelicensing course of study if the commissioner deems that a temporary license is necessary for the servicing of an insurance business***[~~as agent to or with respect to an individual who demonstrates that he is qualified therefor only as to age, residence, trustworthiness, general education and financial responsibility without requiring such individual to successfully complete specific courses of instruction or take an examination,~~] in the following cases:

(a) To the surviving spouse or ***court-appointed personal representative***[~~next of kin or to the administrator or executor, or the employee of such administrator or executor,~~] of a licensed agent ***who dies or becomes mentally or physically disabled, to allow adequate time for the:***

1. Sale of the insurance business owned by the agent;

2. Recovery or return of the agent to the business; or

3. Training and licensing of new personnel to operate the agent's business[~~becoming deceased~~].

(b)[~~To the spouse, next of kin, employee or legal guardian of a licensed agent disabled by sickness, injury, or insanity.~~

~~(c)~~] To a member or employee of a ***business entity***[~~firm, or officer or employee of a corporation,~~] licensed as ***an*** agent, upon the death or disability of ***the sole***[~~an~~] individual designated in[~~ or registered under~~] the ***business entity application or the*** license[~~ to exercise the powers thereof~~].

(c)[~~(d)~~]To the designee of a licensed agent entering upon active service in the armed forces of the United States.

(d)[~~(e) To any agent appointed by an insurer issuing policies on the debit plan, if such agent actually collects and services a debit. The insurer and agent may assume that such license will be issued, effective as of the date of application, and the agent may continue on such debit until notified to the contrary by the commissioner.~~

~~(f) To a full time ordinary life insurance agent appointed by the insurer under a training program filed with and approved by the commissioner, which program shall not be approved unless it includes the equivalent of forty (40) hours of classroom instruction in specific courses in the field of insurance as prescribed by the commissioner for the issuance of a permanent license. No such training program or temporary licensing privilege shall be granted or continued for such ordinary life agents for any insurer obtaining more than ten (10) such temporary licenses within~~

~~any calendar year and which fails to qualify at least sixty-five percent (65%) of its temporary licensees for a permanent license.~~

~~(g)~~] In any other circumstance where the commissioner deems that the public interest will best be served by the issuance of ***this***[~~such~~] license.

(2) ***In addition to the restrictions on temporary licenses set forth in Section 26 of this Act, the commissioner may, by order, limit the authority of any temporary licensee in any way deemed necessary to protect insureds and the public. The commissioner may require the temporary licensee to have a suitable sponsor who is a licensed agent or insurer and who assumes responsibility for all acts of the temporary licensee, and may impose other similar requirements designed to protect insureds and the public. The commissioner may, by order, revoke a temporary license if the interests of insureds or the public are endangered. A temporary license shall not continue after the owner or the personal representative disposes of the business.***

(3) Application for a temporary license shall be filed with the commissioner in ***the***[~~such~~] form and containing ***the***[~~such~~] information as the commissioner may reasonably require, and be accompanied by the application fee as specified in KRS 304.4-010.

[~~(3) The temporary license shall be for a period of not over ninety (90) days, subject to extension by the commissioner in his discretion for one (1) additional period of not over ninety (90) days; except, that license issued as to an executor or administrator under paragraph (a) of subsection (1) of this section may be continued without payment of additional fee until the executor or administrator has disposed of the insurance business, but for not to exceed a period of eighteen (18) months. Temporary license issued to the spouse or next of kin under such paragraph (a) of subsection (1) of this section shall not be extended for an additional term after appointment and qualification of such an administrator or executor.~~

~~(4) The fee paid for the temporary license may be applied upon the fee required for any permanent license issued to the licensee upon or prior to expiration of the temporary license and covering the same kinds of insurance.~~]

Section 26. KRS 304.9-310 is amended to read as follows:

(1)[~~ The commissioner shall not issue more than one (1) temporary license to or with respect to the same individual to be so licensed, within any twelve-month period.~~

~~(2)~~] The temporary license may cover only the same kinds of insurance for which the agent thereby being replaced was licensed.

(2)[~~(3)~~]The temporary licensee may represent under the license all insurers last represented by the replaced agent, and without the necessity of new appointments of the licensee; but the licensee shall not be appointed as to any additional insurer of additional kind of insurance under[~~ such~~] a temporary license. This provision shall not be deemed to prohibit termination of its appointment by any insurer.

(3)[~~(4)~~]A temporary license shall have the same license powers and duties as under a permanent license but shall not be obtained for the sole production of controlled business as defined in KRS 304.9-100, and no sale of insurance of any kind shall be made upon the licensee's own life or the lives of any relative by blood or marriage.

Section 27. KRS 304.9-370 is amended to read as follows:

(1) Application for and acceptance of a license as a consultant, agent, ***or*** adjuster[~~ or solicitor~~] by a nonresident of Kentucky shall thereby be deemed to constitute irrevocable appointment of the Secretary of State as the attorney of the licensee for the acceptance of service of process issued in this state in any action or proceeding against the licensee arising out of ***the***[~~such~~] licensing or out of transactions under the license.

(2) Service of process against any nonresident licensee may be made in any action by service upon the Secretary of State as provided in KRS 304.3-230.

Section 28. KRS 304.09-390 is amended to read as follows:

(1) Every agent referred to in subsection (1) of KRS 304.9-120 shall have and maintain in this state a place of business accessible to the public, and wherein the licensee principally conducts transactions under his ***or her*** license. The address of ***the***[~~such~~] place shall appear upon the license. Nothing in this section shall prohibit maintenance of such a place in the licensee's residence in this state.

(2) The licenses of the licensee[~~, and those of solicitors employed by him,~~] shall be conspicuously displayed in ***the***[~~such~~] place of business in a part[~~ thereof~~] customarily open to the public.

(3) The agent shall keep at his place of business complete records of transactions under his license[~~ and those of his solicitors~~]. ***The***[~~Such~~] record shall show, as to each insurance policy or contract placed[~~ or countersigned~~] by or through the licensee, the names of the insurer and insured, the number and expiration date of, and premium payable as to, the policy or contract, and ***any***[~~such~~] other information as the commissioner may reasonably require. The record shall be kept available for inspection by the commissioner, for a period of at least five (5) years after completion of the respective transactions.

[~~(4) This section shall not apply as to life and health insurance.~~]

Section 29. KRS 304.9-400 is amended to read as follows:

That portion of all premiums or moneys which an agent[~~ or solicitor~~] collects from an insured and which is to be paid to an insurer, its agents, its managing general agents or his ***or her*** principal because of the assumption of liability through the issuance of policies or contracts for insurance, shall be held by the agent[~~ or solicitor~~] in a fiduciary capacity and shall not be misappropriated or converted to his ***or her*** own use or illegally withheld by the agent[~~ or solicitor~~].

Section 30. KRS 304.9-421 is amended to read as follows:

No agent,[~~ solicitor,~~] consultant, adjuster, or surplus lines broker shall directly or indirectly share his ***or her*** commission or other compensation received or to be received on account of a transaction under his ***or her*** license with any ***individual or business entity***[~~person~~] not also licensed as agent,[~~ solicitor,~~] consultant, adjuster, or surplus lines broker under this subtitle as to the kinds of insurance involved in the transaction. This provision shall not affect personal use of ***the***[~~such~~] commissions or compensation, payment of the regular salaries due employees of the agent, consultant, adjuster, or surplus lines broker, or distribution in the regular course of business of compensation and profits among members or stockholders of licensee ***business entities***[~~firms or corporations~~].

Section 31. KRS 304.9-425 is amended to read as follows:

No insurer, ***financial institution,***[~~insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant shall pay directly or indirectly, any commission, brokerage, or other valuable consideration to any ***individual or business entity***[~~person~~] for services as an[~~ insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant within this state, unless ***the individual or business entity***[~~such person~~] held at the time ***the***[~~such~~] services were performed a valid license for that line of insurance as required by the laws of this state for ***the***[~~such~~] services; nor shall any ***individual or business entity***[~~person~~], other than ***an individual or business entity***[~~a person~~] duly licensed by this state as an[~~ insurance~~] agent, surplus lines broker,[~~ solicitor,~~] adjuster, or consultant at the time ***the***[~~such~~] services were performed, accept any such commission, brokerage, or other valuable consideration. Provided, that this section shall not prevent payment or receipt of renewal or other deferred commissions to or by any ***individual or business entity***[~~person~~] entitled[~~ thereto~~] under this section.

Section 32. KRS 304.9-430 is amended to read as follows:

(1) No ***individual or business entity***[~~person~~] shall in this state act as or hold himself ***or herself*** out to be an adjuster unless then licensed by the Kentucky Department of Insurance as an adjuster. Application for license shall be made to the commissioner according to forms as prescribed and furnished by him ***or her***. The commissioner shall issue the license as to ***applicants***[~~persons~~] qualified[~~ therefor~~] upon payment of the license application fee stated in KRS 304.4-010[~~ except that salaried employees of domestic insurers who are required to be licensed as adjusters shall not be required to pay the license fee~~].

(2) To be licensed as an adjuster the applicant ***shall***[~~must be qualified therefor as follows~~]:

(a) [~~Must, ~~] ***Be***[~~if~~] an individual[~~ be~~] twenty-one (21) years or more of age.

(b) [~~Must ~~]Be a resident of Kentucky, or resident of another state which will permit residents of Kentucky to act as adjusters in ***the***[~~such~~] other state.

(c) [~~Must ~~]Be a full-time salaried employee of an insurer, a full time salaried employee of a licensed adjuster or a graduate of a recognized law school, or[~~ must~~] have[~~ had~~] experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him ***or her*** reasonably competent to fulfill the responsibilities of an adjuster.

(d) [~~Must ~~]Be trustworthy and of good reputation.

(e) [~~Must ~~]Have and maintain an office accessible to the public, and keep therein the usual and customary records pertaining to transactions under the license. This provision shall not be deemed to prohibit maintenance of ***the***[~~such~~] office in the office of an insurer, of the employer, or in the home of the licensee.

(f) [~~Must ~~]Have successfully passed a written examination prescribed by the commissioner, except if the applicant has successfully passed a written examination in a state which permits residents of Kentucky to act as adjusters in ***the***[~~such~~] other state.

(3) A ***business entity***[~~firm or corporation~~], whether or not organized under the laws of this state, may be licensed as an adjuster if each individual who is to exercise the license powers is named in the license or registered with the commissioner under the license, and is qualified as for an individual license as adjuster. An additional full license fee shall be paid as to each individual in excess of one (1), so named in the license or so registered to exercise its powers.

(4) Except, that no[~~ such~~] adjuster's license or qualifications shall be required as to any adjuster who is sent into this state on behalf of an insurer for the purpose of investigating or making adjustment of a particular loss under an insurance policy, or for the adjustment of a series of losses resulting from a catastrophe common to all[~~ such~~] losses.

Section 33. KRS 304.9-432 is amended to read as follows:

(1) In the event that an applicant for an adjuster's license meets the qualification requirements of KRS 304.9-430 except that he ***or she*** has not had experience or special education or training as to the handling of loss claims under insurance contracts of sufficient duration and extent to make him ***or her*** reasonably confident to fulfill the responsibilities as an

adjuster, he ***or she*** shall not be required to take and successfully complete the prescribed written examination and may be issued a temporary license as an apprentice adjuster for a period not to exceed one ***hundred eighty (180) days***[~~(1) year~~].

(2) [~~Such ~~]A temporary license as an apprentice adjuster shall be subject to the following terms and conditions:

(a) ***An individual***[~~A person~~] holding a temporary license as apprentice adjuster shall have all of the privileges and obligations of an adjuster licensed under the insurance code;

(b) ***An individual***[~~A person~~] holding a temporary license as an apprentice adjuster shall at all times be a full-time salaried employee of an insurer or an adjuster and subject to training, direction, and control by a licensed adjuster acting in the same capacity as that ***for*** which the applicant applied[~~ for~~];

(c) A temporary license as apprentice adjuster shall be subject to suspension, revocation, or conditions ***in accordance with***[~~pursuant to~~] KRS 304.9-440; and

(d) ***An individual***[~~A person~~] may hold only one (1) temporary license as an apprentice adjuster.

Section 34. KRS 304.9-440 is amended to read as follows:

(1) The commissioner may ***place on probation,*** suspend, or may impose conditions upon the continuance of a license for not more than twelve (12) months,[~~ or may~~] revoke, or refuse to ***issue or renew***[~~continue~~] any license issued under this subtitle or any surplus lines broker license***, or may levy a civil penalty in accordance with KRS 304.99-020, or any combination of actions for***[~~ if, after notice to the licensee and to the insurer represented (as to an agent) or to the employer (as to a solicitor) and a hearing, the commissioner finds that as to the licensee~~] any one (1) or more of the following causes[~~ exist~~]:

(a) ***Providing incorrect, misleading, incomplete, or materially untrue information in the license application***[~~Any cause for which issuance of the license could have been refused had it then existed and been known to the commissioner~~].

(b) ***Violating any insurance laws, or violating any administrative regulations, subpoena, or order of the commissioner or of another state's insurance commissioner***[~~Willful violation of or noncompliance with any applicable provision of this code, or willful violation of any lawful rule, regulation, or order of the commissioner~~].

(c) Obtaining or attempting to obtain ***a***[~~any such~~] license through misrepresentation or fraud.

(d) ***Improperly***[~~Misappropriation or conversion to his own use, or illegal~~] withholding, ***misappropriating, or converting any***[~~of~~] moneys ***on properties received in the course***[~~belonging to policyholders, insurers, beneficiaries, or others and received in the conduct~~] of ***doing insurance*** business[~~ under the license~~].

(e) ***Intentionally misrepresenting***[~~Willful material misrepresentation of~~] the terms of ***an***[~~any~~] actual or proposed insurance contract ***or application for insurance***.

(f) ***Having been convicted of any***[~~Conviction, by final judgment, of a misdemeanor for which restitution is ordered in excess of three hundred dollars ($300), or a~~] felony[~~ involving dishonesty, breach of trust, or moral turpitude~~].

(g) ***Having admitted or been found to have committed any unfair insurance trade practice or insurance fraud***[~~In the conduct of his affairs under the license the licensee has used fraudulent, coercive, or dishonest practices, or has shown himself to be incompetent, untrustworthy, financially irresponsible, or a source of injury and loss to the public~~].

(h) ***Using fraudulent, coercive, or dishonest practices; or demonstrating incompetence, untrustworthiness, or financial irresponsibility; or being a source of injury or loss to the public in the conduct of business in this state or elsewhere***[~~Surrendering or otherwise terminating any other license issued by this state or any other jurisdiction under threat of disciplinary action, denial or refusal of the issuance of or renewal of any other license issued by this state or any other jurisdiction, or revocation or suspension of any other license held by the licensee issued by this state or any other jurisdiction~~].

(i) Having any insurance license, or its equivalent, denied, suspended, or revoked in any other state, province, district, or territory;

(j) Surrendering or otherwise terminating any other license issued by this state or by any other jurisdiction, under threat of disciplinary action, denial, or refusal of the issuance of or renewal of any other license issued by this state or by any other jurisdiction; or revocation or suspension of any other license held by the licensee issued by this state or by any other jurisdiction;

(k) Forging another's name to an application for insurance or to any document related to an insurance transaction;

(l) Cheating, including improperly using notes or any other reference material to complete an examination for an insurance license;

(m) Knowingly accepting insurance business from an individual who is not licensed, but who is required to be licensed under this subtitle;

(n) Failing to comply with an administrative or court order imposing a child support obligation;

(o) Failing to pay state income tax or to comply with any administrative or court order directing payment of state income tax;

(p) Having been convicted of a misdemeanor for which restitution is ordered in excess of three hundred dollars ($300), or of any misdemeanor involving dishonesty, breach of trust, or moral turpitude; or

(q) Any other cause for which issuance of the license could have been refused, had it then existed and been known to the commissioner.

(2) The license of a ***business entity***[~~firm or corporation~~] may be suspended, revoked, or refused [~~:~~

~~(a)~~]for any ***cause relating***[~~of such causes as relate~~] to an individual designated in or registered ***under***[~~as to~~] the license [~~to exercise its powers; or~~

~~(b)~~]if ***the commissioner finds that*** an individual licensee's violation was known or should have been known by one (1) or more of the partners, officers, or managers acting on behalf of the ***partnership***[~~firm~~] or corporation and ***the***[~~such~~] violation was not reported to the Department of Insurance nor corrective action taken[~~ thereon~~]. ***The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310 for a hearing before the commissioner to determine the reasonableness of the commissioner's action.***

(3) The commissioner shall retain the authority to enforce the provisions and penalties of this chapter against any individual or business entity who is under investigation for or charged with a violation of this chapter, even if the individual's or business entity's license has been surrendered or has lapsed by operation of law.

Section 35. KRS 304.9-450 is amended to read as follows:

(1) Upon suspension or revocation of any[~~ such~~] license the commissioner shall[~~ forthwith~~] notify the licensee[~~ thereof~~] either in person or by mail addressed to the licensee at his ***or her*** address last of record with the commissioner. Notice by mail shall be deemed effectuated when so mailed. The commissioner shall give like notice to the insurer represented by the agent, in the case of an agent's license[~~, and to the employer in the case of a solicitor's license~~].

(2)[~~ Suspension or revocation of the license of an agent shall automatically suspend the licenses of all solicitors employed by him.~~

~~(3)~~] The commissioner shall not again issue a license under this code to or as to any ***individual or business entity***[~~person~~] whose license has been revoked, until after expiration of one (1) year and thereafter not until ***the individual or business entity***[~~such person~~] again qualifies[~~ therefor~~] in accordance with the applicable provisions of this code. ***An individual or business entity***[~~A person~~] whose license has been revoked twice shall not again be eligible for any license under this code.

(3)[~~(4)~~]If the license of a ***business entity***[~~firm or corporation~~] is[~~ so~~] suspended or revoked, no member***,***[~~ of such firm, or~~] officer***,*** or director of ***the business entity***[~~such corporation,~~] shall be licensed or be designated in or as to any license to exercise the powers thereof during the period of ***the***[~~such~~] suspension or revocation, unless the commissioner determines upon substantial evidence that ***the***[~~such~~] member, officer, or director was not personally at fault and did not acquiesce in the matter on account of which the license was suspended or revoked.

(4) In the event that the action by the commissioner is to nonrenew or to deny an application for a license, the commissioner shall notify the applicant or licensee and advise, in writing, the applicant or licensee of the reason for the denial or nonrenewal of the applicant's or licensee's license. The applicant or licensee may make written demand upon the commissioner in accordance with KRS 304.2-310.

Section 36. KRS 304.9-455 is amended to read as follows:

(1) Each person licensed under this subtitle shall notify the commissioner in writing immediately if his ***or her*** license to conduct ***insurance*** securities, real estate, auctioneer, investment, financial, or financial planning business of any kind in this state or elsewhere is surrendered or terminated under threat of disciplinary action, refused, suspended, revoked, or renewal of continuance denied.

(2) A licensee shall report to the commissioner any administrative action taken against the licensee in another jurisdiction or by another governmental agency in this state within thirty (30) days of the final disposition of the matter. This report shall include a copy of the order, consent to order, or other relevant legal documents.

(3) Within thirty (30) days of service upon the licensee of any criminal complaint, information, or indictment in any jurisdiction, the licensee shall submit to the commissioner a copy of the initial complaint, indictment, or information filed. The licensee shall further submit copies of all relevant legal documents, including the order resulting from the hearing, any plea, agreement, judgment, or other relevant legal documents.

SECTION 37. A NEW SECTION OF SUBTITLE 9 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) The commissioner shall not assess a greater fee for an insurance license or related service to an individual or business entity not residing in this state, based solely on the fact that the individual or business entity does not reside in this state.

Section 38. KRS 304.10-020 is amended to read as follows:

This Surplus Lines Law shall not apply to reinsurance, or to the following insurances when so placed by[~~ licensed~~] agents or surplus lines brokers ***licensed in***[~~of~~] this state:

(1) Ocean marine and foreign trade insurances.

(2) Insurance on subjects located, resident, or to be performed wholly outside of this state, or on vehicles or aircraft owned and principally garaged outside this state.

(3) Insurance on operations of railroads engaged in transportation in interstate commerce and their property used in such operations.

(4) Insurance of aircraft owned or operated by manufacturers of aircraft or of aircraft operated in commercial interstate flight or cargo of[~~ such~~] aircraft or against liability other than workers' compensation and employer's liability arising out of the ownership, maintenance or use of[~~ such~~] aircraft.

Section 39. KRS 304.10-070 is amended to read as follows:

(1) A broker shall not place surplus lines insurance with an insurer that he ***or she*** knows, or in the exercise of reasonable diligence could know***:***

(a) Has a surplus in regard to ***policyholders***[~~policyholder~~] of less than ***six***[~~three~~] million dollars ***($6,000,000);***[~~($3,000,000),~~]

(b) Has not established satisfactory evidence of good repute and financial integrity;

(c) Is unsound financially***;***[~~,~~] or[~~ that~~]

(d) Is ineligible under the Kentucky insurance code.

(2) A broker may:

(a) Place insurance covering certificates of investment with an insurance company or guarantee fund which is financially sound and has capital funds and reserves in excess of fifteen million dollars ($15,000,000); and

(b) Place insurance with a United States insurance exchange which the commissioner, in his ***or her*** discretion, may designate for use by surplus lines brokers licensed by the Commonwealth of Kentucky.

(3) A broker shall not place insurance with an alien insurer that is not recognized by the National Association of Insurance Commissioners and does not maintain in the United States a trust fund for the benefit of United States policyholders of at least ***five***[~~one~~] million ***four***[~~five~~] hundred thousand dollars ***($5,400,000)***[~~($1,500,000)~~].

(4) A broker shall not place insurance with an insurer that has engaged in the insurance business less than three (3) years unless ***the***[~~such~~] insurer has deposited with the ***commissioner***[~~custodian of insurance securities~~] publicly-traded securities with a market value of at least ***six***[~~three~~] hundred thousand dollars ***($600,000)***[~~($300,000)~~].

(5) This section shall not apply to surplus lines insurers eligible to do business in Kentucky as of July 15, 1982, except that the commissioner may revoke[~~ such~~] eligibility, or may order ***the***[~~such~~] insurer to comply with this section or may suspend the operation of the insurer in Kentucky.

(6) The commissioner may declare that a surplus lines insurer is ineligible to transact business in Kentucky. The commissioner shall promptly mail notice of all declarations of ineligibility to each surplus lines broker if at any time the commissioner has reason to believe that a surplus lines insurer:

(a) Is in unsound financial condition;

(b) Has acted in an untrustworthy manner;

(c) No longer meets the standards set forth in this subtitle;

(d) Has willfully violated the laws of Kentucky; or

(e) Does not conduct a proper claims practice.

Section 40. KRS 304.10-110 is amended to read as follows:

(1) As to a surplus lines risk which has been assumed by an unauthorized insurer ***under***[~~pursuant to~~] this subtitle, and if the premium[~~ thereon~~] has been received by the surplus lines broker who placed ***the***[~~such~~] insurance, in all questions[~~ thereafter~~] arising under the coverage as between the insurer and the insured the insurer shall be deemed to have received the premium due to it for ***the***[~~such~~] coverage; and the insurer shall be liable to the insured as to losses covered by ***the***[~~such~~] insurance and for unearned premiums which may become payable to the insured upon cancellation of ***the***[~~such~~] insurance whether or not in fact the broker is indebted to the insurer with respect to ***the***[~~such~~] insurance or for any other cause.

(2) Each unauthorized insurer assuming a surplus lines risk under this subtitle shall be deemed[~~ thereby~~] to have subjected itself to the terms of this section.

(3) Notwithstanding subsection (1) of this section, surplus lines brokers are also liable to the insured as to losses covered by the insurance and for unearned premiums which may become payable to the insured upon cancellation of the insurance.

Section 41. KRS 304.10-120 is amended to read as follows:

(1) Any person while licensed in this state as ***an***[~~a resident general lines~~] agent who:

(a) ***Is a resident of Kentucky;***

(b) Has been continuously licensed for at least three (3) years;

(c)[~~(b)~~]Is deemed by the commissioner to be competent and trustworthy with respect to the handling of surplus lines; ***and***

(d)[~~(c)~~]Represents at least three (3) insurers admitted to transact property or casualty insurance in Kentucky;[~~ and~~

~~(d) Maintains an office at a designated location in this state;~~]

may be licensed as a surplus lines broker.

(2) Application for the license shall be made to the commissioner on forms as designated and furnished by the commissioner.

(3) The license fee shall be as specified in KRS 304.4-010.

(4) The license and licensee shall be subject to the applicable provisions of Subtitle 9 ***of this chapter***.

(5) In order for a surplus lines broker's license to be renewed, the licensee ***shall***[~~must~~] have at least five (5) current appointments with property or casualty insurers admitted to do business in Kentucky.

(6) Notwithstanding subsection (1)(a) of this section, on or after July 1, 2002, an individual licensed as a surplus lines broker in the applicant's home state may be issued a nonresident surplus lines broker's license in Kentucky if the applicant's home state issues surplus lines broker licenses to Kentucky residents on the same basis.

Section 42. KRS 304.10-130 is amended to read as follows:

(1) The commissioner may suspend or revoke any surplus lines broker's license:

(a) If the broker fails to file his ***or her*** annual statement or to remit the tax as required by this subtitle; or

(b) If the broker fails[~~ to maintain an office in this state, or~~] to keep records, or to allow the commissioner to examine his ***or her*** records as required by this subtitle[~~, or if he removes his records from the state~~]; or

(c) If the broker knowingly or negligently places a surplus lines coverage in an insurer that is in unsound financial condition in violation of KRS 304.10-070; or

(d) For any other applicable cause for which ***an***[~~a general lines~~] agent's license may be suspended or revoked.

(2) The procedures provided by Subtitle 9 ***of this chapter*** for suspension or revocation of licenses shall apply to suspension or revocation of a surplus lines broker's license.

(3) Upon suspending or revoking the broker's surplus lines license the commissioner shall also suspend or revoke all other licenses of or as to the same ***individual***[~~person~~] under this code.

(4) No broker whose license has been suspended or revoked shall again be so licensed until any fines or delinquent taxes ***owed***[~~owing by him~~] have been paid, or, in case of revocation until after expiration of one (1) year from the date revocation became final.

Section 43. KRS 304.10-140 is amended to read as follows:

Prior to issuance of a license as a surplus lines broker, the applicant shall file with the commissioner, and[~~ thereafter~~] for as long as the license remains in effect shall keep in force:

(1) Evidence of financial responsibility in the sum of not less than ***one million***[~~five hundred thousand~~] dollars ***($1,000,000)***[~~($500,000)~~] per occurrence, and the sum of ***two***[~~one~~] million[~~ five hundred thousand~~] dollars ***($2,000,000)***[~~($1,500,000)~~] in the aggregate, for all[~~ such~~] occurrences within one (1) year, either in the form of an errors and omissions insurance policy issued by an authorized insurer, a bond issued by an authorized corporate surety, a deposit, or ***a***[~~any~~] combination of ***a bond issued by an authorized corporate surety and a deposit,***[~~these evidences of financial responsibility~~]. ***The***[~~Such~~] policy, bond, deposit, or combination ***of a bond or deposit***[~~thereof~~] shall not be terminated unless at least thirty (30) days' prior written notice is given to the licensee and the commissioner; and

(2) A bond in favor of the State of Kentucky in the penal sum of ***fifty***[~~twenty~~] thousand dollars ***($50,000)***[~~($20,000)~~], with an authorized corporate surety guaranteeing that he ***or she*** will conduct business under the license in accordance with the provisions of this subtitle and that he ***or she*** will promptly remit the taxes required by KRS 304.10-180. The aggregate liability of the surety for any and all claims on any[~~ such~~] bond shall in no event exceed the penal sum[~~ thereof~~]. No[~~ such~~] bond shall be terminated unless not less than thirty (30) days prior written notice[~~ thereof~~] is given to the licensee and filed with the commissioner.

Section 44. KRS 304.10-160 is amended to read as follows:

(1) Each broker shall keep in his ***or her*** office[~~ in this state~~] a full and true record of each surplus lines coverage procured by him ***or her***, including a copy of each daily report, if any, a copy of each certificate of insurance issued by him ***or her***, and[~~ such~~] of the following items as may be applicable:

(a) Amount of the insurance;

(b) Gross premium charged;

(c) Return premium paid, if any;

(d) Rate of premium charged upon the several items of property;

(e) Effective date of the contract, and the terms thereof;

(f) Name and address of each insurer on the direct risk and the proportion of the entire risk assumed by ***the***[~~such~~] insurer if less than the entire risk;

(g) Name and address of the insured;

(h) Brief general description of the property or risk insured and where located or to be performed; and

(i) Other information as may be required by the commissioner.

(2) The record[~~ shall not be removed from this state and~~] shall be open to examination by the commissioner at all times within five (5) years after issuance of the coverage to which it relates.

Section 45. KRS 304.10-180 is amended to read as follows:

(1) [~~On or before the first day of April of each year~~]Each broker shall ***pay the following taxes***[~~remit to the State Treasurer through the commissioner~~]***:***

(a) ***On or before the first day of April each year,*** a tax at the rate of three percent (3%) on the premiums, ***assessments, fees, charges, or other consideration deemed part of the premium as defined in KRS 304.14-030***[~~exclusive of sums collected to cover federal and state taxes and examination fees~~], on surplus lines insurance subject to tax transacted by him ***or her*** with unauthorized insurers during the preceding calendar year as shown by his ***or her*** annual statement filed with the commissioner. ***The tax shall not be assessed on the premium surcharge tax, the local government premium tax, or any other state or federal tax. The tax shall be remitted to the commissioner.*** When collected the tax shall be credited to the ***insurance regulatory trust***[~~general~~] fund***, as established by KRS 304.2-400;***

(b) ***The premium surcharge tax, to be remitted to the Kentucky Revenue Cabinet, in accordance with KRS 136.392; and***

(c) ***The local government premium tax, to be remitted to the appropriate city, county, or urban-county government taxing authority, in accordance with KRS 91A.080***.

(2) If a surplus lines policy covers risks or exposures only partially in this state the tax so payable shall be computed upon the proportion of the premium which is properly allocable to the risks or exposures located in this state.

Section 46. KRS 304.2-120 is amended to read as follows:

(1) In general, orders and notices of the commissioner shall be issued in accordance with this chapter. Notices, recommended orders, and final orders issued as a result of an administrative hearing shall be issued in accordance with KRS Chapter 13B.

(2) Orders and notices of the commissioner shall be effective only when in writing signed by ***the commissioner***[~~him~~] or by ***the commissioner's***[~~his~~] authority.

(3) Every order of the commissioner shall state its effective date, and shall concisely state:

(a) Its intent or purpose;

(b) The grounds on which ***it is*** based;

(c) The provisions of this code ***under***[~~pursuant to~~] which action is[~~ so~~] taken or proposed to be taken; and

(d) All other matters required by law.

(4) All persons holding licenses or certificates of authority from the commissioner shall maintain current residence, business, home office, and administrative addresses, as applicable, on file with the commissioner. ***Licensees***[~~These persons~~] shall ***inform***[~~notify~~] the commissioner in writing ***in a format acceptable to the commissioner of***[~~immediately upon~~] any change in addresses ***or legal name within thirty (30) days of the change***. As a condition to holding a license or certificate of authority from the commissioner, persons holding licenses or certificate of authority are deemed to have consented to service of notices and orders of the commissioner at their addresses on file with the commissioner and any notice or order of the commissioner mailed or delivered to the address on file with the commissioner constitutes valid service of notice or order.

Section 47. KRS 304.9-107 is amended to read as follows:

The following persons shall be exempt from the licensing qualifications and requirements of KRS 304.9-105***(5)***[~~(4)~~](b) and, if otherwise properly qualified, shall be issued licenses without satisfying KRS 304.9-105***(5)***[~~(4)~~](c):

(1) Persons holding a certified life underwriter degree; and

(2) Persons holding a certified property and casualty underwriter degree.

Section 48. The following KRS sections are repealed:

304.4-015 Payment schedule for biennial fees.

304.9-050 "Solicitor" defined.

304.9-060	"Service representative" defined -- General requirements.
304.9-220	Multiple licensing, life agents.
304.9-380	Solicitors -- Special requirements.
304.9-434	Exemption from written examination.
304.9-455	Licensed person to notify commissioner of licensure disciplinary action.

The Committee Amendment No. 1 to **HB 875** is as follows:

On page 3, line 13, after "-" by inserting "-"; and

On page 3, line 16, after "***Health***" by inserting "--"; and

On page 3, line 18, after "***Property***" by inserting "--"; and

On page 3, line 20, after "***Casualty***" by inserting "--"; and

On page 3, line 22, after "***products***" by inserting "--"; and

On page 10, line 11, by deleting "***and***" and removing the brackets and strikethroughs around "or"; and

On page 22, line 10, by deleting "***one***" and inserting in lieu thereof "***line***"; and

On page 46, line 22, after "Be" by inserting "***an***" and placing brackets around and striking through "a full-time salaried"; and

On page 49, line 11, by deleting "***on***" and inserting in lieu thereof "***or***".

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bill has been posted for Committee consideration:

State Government: **HB 887**

Calendar

HB 349, HB 408, HB 620, HB 751, HB 740, HB 750, HB 777, HB 118, HB 563, HB 585, HB 691, HB 819, HJR 122, HR 130, HB 382, HB 399, HB 440, HB 668, HB 681, HB 689, HCR 82, HJR 101, HB 393, HB 677, HB 839, HB 885, HB 721, HB 814, SJR 57, HB 792, HB 805, HB 806, and **HCR 108** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 537, HB 650, HB 318, HB 698, HB 712, HB 737, HB 780, SB 59, HB 118, HB 620, HB 751, HB 814, HJR 101,** and **HR 130** have been posted for passage in the Orders of the Day for March 3, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 697, HB 635, HB 885**

Judiciary: **HB 839**

Orders of the Day

HB 618, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage.

Agreed by a majority of members elected.

Representative Jenkins moved the adoption of Committee Amendment No. 1 to **HB 618**. Agreed.

Representative Jenkins moved the adoption of Floor Amendment No. 1 to **HB 618**. Agreed.

Representative Jenkins moved that **HB 618**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 2, 2000 roll call on **HB 618** - Appendix.)

HB 618, as amended, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 618**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 116, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Palmer moved the adoption of the Committee Substitute to **HB 116**. Agreed.

Representative Palmer moved that **HB 116**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 2, 2000 roll call on **HB 116** - Appendix.)

HB 116, by way of Committee Substitute, was passed.

Representative Palmer moved the adoption of Floor Amendment No. 1 Title to the Committee Substitute to **HB 116**. Agreed; and the title was agreed to.

Representative Palmer moved that the vote by which **HB 116**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 656, with Committee Substitute attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stein moved the adoption of the Committee Substitute to **HB 656**. Agreed.

Representative Stein moved that **HB 656**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 65, Nays 23**. (See March 2, 2000 roll call on **HB 656** - Appendix.)

HB 656, by way of Committee Substitute, was passed and the title agreed to.

Representative Stein moved that the vote by which **HB 656**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 208, HB 253, HB 265, HB 273, HB 302, HB 326, HB 340, HCR 10, HCR 13, HCR 28,** and **HCR 30** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:10 p.m.)

Orders of the Day (Continued)

HCR 112 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Weaver moved that **HCR 112** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 2, 2000 roll call on **HCR 112** - Appendix.)

HCR 112 was adopted.

Representative Weaver moved that the vote by which **HCR 112** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 584, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Geveden moved the adoption of the Committee Substitute to **HB 584**. Agreed.

Representative Gray moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 584**. Agreed.

Representative Callahan moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 584**. Agreed.

Representative Geveden moved that **HB 584**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 55, Nays 29**. (See March 2, 2000 roll call on **HB 584** - Appendix.)

HB 584, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Geveden moved that the vote by which **HB 584**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 641, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crall moved the adoption of Floor Amendment No. 1 to **HB 641**. Agreed.

Representative Crall moved that **HB 641**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 2, 2000 roll call on **HB 641** - Appendix.)

HB 641, as amended, was passed and the title agreed to.

Representative Crall moved that the vote by which **HB 641**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 161, with Committee Substitute and Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Siler moved the adoption of the Committee Substitute to **HB 161**. Agreed.

Representative Siler moved that **HB 161**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 87, Nays 9**. (See March 2, 2000 roll call on **HB 161** - Appendix.)

HB 161, by way of Committee Substitute, was passed.

Representative Siler moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 161**. Agreed; and the title was agreed to.

Representative Siler moved that the vote by which **HB 161**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 568, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved the adoption of the Committee Substitute to **HB 568**. Agreed.

Representative Lindsay moved that **HB 568**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 63, Nays 29**. (See March 2, 2000 roll call on **HB 568** - Appendix.)

HB 568, by way of Committee Substitute, was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 568**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 693 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved that **HB 693** be passed.

On the roll call the vote was: **Yeas 99**, **Nays 0**. (See March 2 , 2000 roll call on **HB 693** - Appendix.)

HB 693 was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 693** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 136, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved the adoption of the Committee Substitute to **HB 136**. Agreed.

Representative Draud moved that **HB 136**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 85**, **Nays 10**. (See March 2, 2000 roll call on **HB 136** - Appendix.)

HB 136, by way of Committee Substitute, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 136**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 696 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative McKee moved that **HB 696** be passed.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 2 , 2000 roll call on **HB 696** - Appendix.)

HB 696 was passed and the title agreed to.

Representative McKee moved that the vote by which **HB 696** was passed be reconsidered and said motion be placed on the table. Agreed.

SJR 17 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Nunn moved that **SJR 17** be adopted.

On the roll call the vote was: **Yeas 98**, **Nays 0**. (See March 2, 2000 roll call on **SJR 17** - Appendix.)

SJR 17 was adopted.

Representative Nunn moved that the vote by which **SJR 17** was adopted be reconsidered and said motion be placed on the table. Agreed.

HCR 54 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Allen moved that **HCR 54** be adopted.

On the roll call the vote was: **Yeas 74**, **Nays 9**. (See March 2, 2000 roll call on **HCR 54** - Appendix.)

HCR 54 was adopted.

Representative Allen moved that the vote by which **HCR 54** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 565 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Baugh moved that **HB 565** be passed.

On the roll call the vote was: **Yeas 92, Nays 2**. (See March 2 , 2000 roll call on **HB 565** - Appendix.)

HB 565 was passed and the title agreed to.

Representative Baugh moved that the vote by which **HB 565** was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 208, HB 253, HB 265, HB 273, HB 302, HB 326, HB 340, HCR 10, HCR 13, HCR 28, and **HCR 30** delivered to the Senate and signed by the President. Delivered to the Governor on March 2, 2000, at 3:49 p.m.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 10:00 a.m., March 3, 2000. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 787** be waived retroactively. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Tourism, Development, and Energy: **HB 895**

Health and Welfare: **HB 36, HB 969**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 936, HB 949**

Local Government: **HB 1000, HCR 147**

Report of Committees (Continued)

The Committee on Judiciary reported **HB 526,** with Committee Substitute attached thereto, **HB 678, HB 685,** with Committee Substitute attached thereto, **HB 734,** and **HB 794** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 526, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.150 is amended to read as follows:

(1) To the extent reasonably necessary for the support of an individual and his dependents in addition to property totally exempt under subsection (2) of this section, that individual shall be entitled to exemption of money or property received and rights to receive money or property for alimony, support, or separate maintenance.

(2) An individual shall be entitled to exemption of the following property:

(a) An award under a crime victim's reparation law;

(b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(c) A payment~~[, not to exceed seven thousand five hundred dollars ($7,500),]~~ on account of personal bodily injury, not including pain and suffering[~~ or compensation for actual pecuniary loss,~~] of the debtor or an individual of whom the debtor is a dependent;

(d) ***A payment for pain and suffering on account of personal bodily injury, not to exceed fifty thousand dollars ($50,000), of the debtor or an individual of whom the debtor is a dependent;***

(e) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(f)[~~(e)~~] Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, 427.120, and 427.125; or

(g)[~~(f)~~] The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, or Section 408 or 408A of the Internal Revenue Code, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, as permitted by 11 U.S.C. sec. 522. This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days before the debtor files for bankruptcy. This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:

1. An order of a court for payment of maintenance;
2. An order of a court for payment of child support.

The Committee Substitute No. 1 to **HB 526** is as follows:

HB 526, AN ACT relating to property.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 427.150 is amended to read as follows:

(1) To the extent reasonably necessary for the support of an individual and his dependents in addition to property totally exempt under subsection (2) of this section, that individual shall be entitled to exemption of money or property received and rights to receive money or property for alimony, support, or separate maintenance.

(2) An individual shall be entitled to exemption of the following property:

(a) An award under a crime victim's reparation law;

(b) A payment on account of the wrongful death of an individual of whom the debtor was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(c) A payment, not to exceed ***fifteen thousand dollars ($15,000)***[~~ seven thousand five hundred dollars ($7,500)~~], on account of personal bodily injury, not including pain and suffering or compensation for actual pecuniary loss, of the debtor or an individual of whom the debtor is a dependent;

(d) A payment in compensation of loss of future earnings of the debtor or an individual of whom the debtor is or was a dependent, to the extent reasonably necessary for the support of the debtor and any dependent of the debtor;

(e) Assets held, payments made and amounts payable under pensions exempt pursuant to KRS 61.690, 161.700, 427.120, and 427.125; or

(f) The right or interest of a person in an individual retirement account or annuity, deferred compensation account, tax sheltered annuity, simplified employee pension, pension, profit-sharing, stock bonus, or other retirement plan described in the Internal Revenue Code of 1986, or Section 408 or 408A of the Internal Revenue Code, as amended which qualifies for the deferral of income tax until the date benefits are distributed. This exemption shall also apply to the operation of the Federal Bankruptcy Code, as permitted by 11 U.S.C. sec. 522. This exemption shall not apply to any amounts contributed to an individual retirement account or annuity, deferred compensation account, a pension, profit-sharing, stock bonus, or other qualified retirement plan or annuity if the contribution occurs within one hundred twenty (120) days before the debtor files for bankruptcy. This exemption shall not apply to the right or interest of a person in an individual retirement account or annuity, deferred compensation account, pension, profit-sharing, stock bonus, or other retirement plan to the extent that that right or interest is subject to any of the following:

1. An order of a court for payment of maintenance;
2. An order of a court for payment of child support.

HB 678, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.358 is amended to read as follows:

Any prisoner who has completed his sentence in a county or regional jail ***or under condition of home incarceration*** shall, from the day incarceration ceases and within the time and amount designated by the sentencing court, pay restitution to his victim and reimbursement for his incarceration to the state or local government ***and his or her home incarceration fees***, in addition to any other monetary and community service sanctions imposed by the sentencing court. The sentencing court may use its contempt sanctions to enforce its orders.

HB 685, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 522.040 is amended to read as follows:

(1) A public servant is guilty of misuse of confidential information when, in contemplation of official action by himself or by a governmental unit with which he is associated, or in reliance on information to which he has access in his official capacity and which has not been made public, he:

(a) Accepts or agrees to accept a pecuniary interest in any property, transaction or enterprise which may be affected by ***the***[~~such~~] information or official action; or

(b) Speculates or wagers on the basis of ***the***[~~such~~] information or official action; or

(c) Aids another to do any of the foregoing.

(2) Misuse of confidential information is a Class D felony.

The Committee Substitute No. 1 to **HB 685** is as follows:

HB 685, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 525.120 is amended to read as follows:

(1) A person is guilty of abuse of a corpse when except as authorized by law he intentionally treats a corpse in a way that would outrage ordinary family sensibilities.

(2) Abuse of a corpse is a Class A misdemeanor***, unless the act attempted or committed involved sexual intercourse or deviate sexual intercourse with the corpse, in which case it is a Class D felony***.

HB 734, AN ACT relating to the Court of Justice.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 26A.090 is amended to read as follows:

As used in KRS 26A.090 to 26A.115, unless the context otherwise requires:

(1) "Operating costs allowance" means compensation equivalent to the annual expenses borne by the unit of government for utilities, janitorial service, rent, insurance, and necessary maintenance, repair, and upkeep of the court facility which do not increase the permanent value or expected life of the court facility, but keeps it in efficient operating condition, and, at the election of the Administrative Office of the Courts, capital costs of interior or mechanical renovations for the benefit of the court.

(2) "Use allowance" means compensation equal to four percent (4%) annually of the total original capital costs and the cost of capitalized renovation of the court facility, except that if indebtedness has been incurred in respect to such capital costs at an interest rate equal to or greater than seven percent (7%), compensation shall be at a rate of eight percent (8%) annually of that portion of the capital costs for which the rate applies. For refinanced projects constructed or renovated prior to July 1, 1994, the use allowance payment shall not change for the term of the original bond issue, unless there is a change in the space occupied. For court facilities renovated or constructed after July 1, 1994, "use allowance" means the court's proportional share of the annual principal and interest cost in connection with the renovation or construction, but not to exceed eight percent (8%) annually of capital costs, or, if there is no debt, four percent (4%) annually of capital costs***. for court facilities renovated or constructed after July 15, 2000, "use allowance" means the court's proportional share of the annual principal and interest costs in connection with the construction or renovation of the facility, not to exceed the authorized annual use allowance, and, if there is no debt, four percent (4%) annually of capital cost***.

(3) "Capital costs" means the costs borne by the unit of government, excluding grants, conditioned by the grantor agency specifically for court facility construction or renovation, for acquisition of property and for construction and capitalized

renovation including interest accruing during construction or renovation, but no other interest of each court facility. If capital costs are not documented, reasonable estimates provided by qualified appraisers will suffice. ***After the effective date of this Act, capital costs, for the purpose of computing the maximum annual use allowance, shall not exceed the project scope as authorized by the General Assembly in the judicial branch budget or as increased and approved under Section 4 of this Act.***

(4) "Capitalized renovation" means all remodeling involving the structural or mechanical systems, except for remodeling that involves substantial demolition of the original structure. Remodeling involving substantial demolition of the original structure shall constitute construction resulting in a new court facility.

(5) "Unit of government" means a county, city, urban-county government, special district, or corporate entity created for the purpose of constructing or holding title to a court facility.

(6) "Court facility" means the land and buildings owned or operated by a unit of government in which space for the court of justice is provided. Judges' benches, jury and witness boxes, and fixed seating shall be considered as permanent building fixtures.

(7) "Court facilities standards committee" means a committee consisting of the Chief Justice or his designee; one (1) judge each of the Court of Appeals, the Circuit Court, and the District Court appointed by the Supreme Court; the president of the Circuit Clerks' Association; the ***chairmen***[~~chairman~~] of the ***House and Senate*** Judiciary[~~-Civil~~] Committees of the General Assembly; the secretary of the Finance and Administration Cabinet; ***the director of the Administrative Office of the Courts;*** and a county judge/executive appointed by the Governor. Each appointed member shall serve for a term of four (4) years from the date of his appointment or until he vacates the office in respect to which he was appointed, whichever is earlier.

SECTION 2. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Chief Justice shall establish rules of procedure or guidelines on matters relating to the design, financing, and construction of court facilities. The rules or guidelines shall encompass:

(a) The duties and responsibilities of the Administrative Office of the Courts under this section;

(b) Criteria for evaluating the feasibility or practicability of various contracting or construction methods;

(c) A project management system for managing, monitoring, and reporting on projects through all phases from funding to completion, including change-order procedures;

(d) Assistance to counties in evaluating proposals for architectural, construction, or other professional services;

(e) Methods for financing energy savings projects, Americans with Disabilities Act projects, and other improvement projects;

(f) Kentucky standards for court facilities, including detailed requirements for space, construction, interior and exterior finishes, structural and mechanical systems, fixed and moveable furniture and equipment, and maximum unit cost for court facilities throughout the Commonwealth; and

(g) The maintenance and operation of court facilities after construction.

(2) The Administrative Office of the Courts shall oversee the design, financing, and construction of court facilities. The Administrative Office of the Courts shall:

(a) Assess the need for court facilities construction or renovation throughout the Commonwealth. The assessment shall consider the age, space adequacy, projected needs, structural soundness, mechanical and electrical systems, security needs, and interior and exterior quality of existing court facilities;

(b) Develop a project program for the construction or renovation of court facilities that the Administrative Office of the Courts determines to be most in need of construction or renovation, based on the needs assessment required under paragraph (a) of this subsection. The project program shall detail a complete and specifically defined court facilities project that conforms to the Kentucky standards for court facilities established under paragraph (f) of subsection (1) of this section, and shall include itemized space requirements, space relationships, design goals, scope limits, site considerations, cost estimates, and a proposed project budget;

(c) Establish the financial condition of any county that contains a court facility for which a project program under paragraph (b) of this subsection has been developed to determine the county's ability to participate in the proposed project. The Administrative Office of the Courts may discharge this responsibility by obtaining certification of the county's financial condition from the Department for Local Government, under subsection (5) of Section 7 of this Act;

(d) Develop a prioritized list, with cost estimates, based on land availability and the considerations required by this section, of proposed court facilities projects, and submit the list to the Chief Justice for approval and to the Court Facilities Standards Committee for informational purposes only. Upon approval by the Chief Justice, the Administrative Office of the Courts shall submit the prioritized list to the Capital Planning Advisory Board, by April 15 of each odd-numbered year, in accordance with KRS 7A.120; and

(e) Develop and maintain uniform contracts to be used by local units of government when procuring architectural, construction, financial, or other services relating to court facilities projects authorized by the General Assembly.

(3) Before the Administrative Office of the Courts submits a budget request for court projects under KRS 48.050, each local unit of government that is expected to participate in financing a requested court project shall enter into a written memorandum of agreement with the Administrative Office of the Courts. Each county with a court project authorized by the 2000 General Assembly shall enter into a written memorandum of agreement with the Administrative Office of the Courts. The agreement shall be developed by the Administrative Office of the Courts, shall specify the rights, duties, and obligations of the local unit of government and the Administrative Office of the Courts relating to the project, and shall be contingent upon the project's authorization by the General Assembly.

(4) No contract, and no modification to any contract, relating to the design, financing, or construction of court facilities projects authorized by the General Assembly shall be executed unless first reviewed and approved by the Administrative Office of the Courts.

(5) All court facilities projects, beginning with those authorized by the 2000 General Assembly, shall comply with the Kentucky standards for court facilities established under paragraph (f) of subsection (1) of this section. No other standards shall be used.

(6) This section shall not affect or apply to any contract executed prior to the effective date of this Act.

(7) All local units of government or any other entity providing space to the Court of Justice under KRS 26A.100 shall, consistent with the law, comply with the rules of procedure and guidelines established by the Chief Justice and administered by the Administrative Office of the Courts under this section.

SECTION 3. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The use allowance in the judicial branch budget recommendation submitted under KRS 48.100 shall be determined as if bonds will be issued for a term of twenty (20) years at the prevailing market rate, computed from the estimated date that the Court of Justice will occupy the facility. If the market rate for the bonds has increased when the bonds are to be sold, the director of the Administrative Office of the Courts may approve an extension in the bond term, up to a total of twenty-five (25) years, but only as necessary to keep the annual use allowance within the budgeted amount. All bonds issued by any local unit of government for court facilities projects shall be limited to the term approved by the Administrative Office of the Courts.

(2) Before approving any bond issue for a term exceeding twenty-five (25) years, the director of the Administrative Office of the Courts shall submit a proposal for the extended term to the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee. The proposal shall include a statement of the necessity for the extended bond term and the impact of the extended term on the project's budgeted scope and authorized annual use allowance.

(3) Within thirty (30) days after receiving a proposal to extend a bond term beyond twenty-five (25) years, the Interim Joint Committee on Appropriations and Revenue and the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative Office of the Courts. If either committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days:

(a) Disapprove and take no further action on the proposal;

(b) Revise the proposal to comply with the committee's objections; or

(c) Determine to approve and proceed with the proposal over the committee's objection.

SECTION 4. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) There is created a court facility use allowance contingency fund. The fund shall consist of money appropriated to it in the judicial branch budget by the General Assembly. All investment earnings shall be credited to the fund. Money in the fund shall not lapse but shall be carried forward to the next fiscal year or biennium.

(2) The Court of Justice may agree to increase the budgeted scope of a court project or project pool authorized in a judicial branch budget bill enacted by the General Assembly, and may use the use allowance contingency fund to cover any resulting increase in the budgeted annual use allowance, if and only if:

(a) The appropriate unit of government first submits a proposal for the increase to the Court Facilities Standards Committee, and the Court Facilities Standards Committee approves the increase;

(b) The annual use allowance for the project or project pool, adjusted for the proposed increase in scope, would not exceed the annual use allowance specified for that project or project pool in the multiyear use allowance schedule set out in the judicial branch budget bill or memorandum by more than fifteen percent (15%); and

(c) The requirements of Section 5 of this Act have been met.

SECTION 5. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) Before the Court of Justice gives final approval to an increase in the budgeted scope of an authorized project or project

pool listed in a judicial branch budget bill which would result in an increased use allowance, the director of the Administrative Office of the Courts shall submit a proposal for the increase to the Capital Projects and Bond Oversight Committee at least fourteen (14) days prior to the committee meeting. The proposal shall include:

(a) The multiyear use allowance specified in the judicial branch budget bill or memorandum;

(b) The proposed increase in the use allowance;

(c) The reasons and necessity for the proposed increase;

(d) A statement as to whether or how the proposed use of funds conforms with the requirements of the law; and

(e) Any other information that the committee requests.

(2) Within thirty (30) days after receiving a proposal to increase the use allowance, the Capital Projects and Bond Oversight Committee shall either approve or disapprove the proposal and shall then promptly notify the director of the Administrative office of the Courts of its decision.

(3) If the Capital Projects and Bond Oversight Committee disapproves the proposal, the director of the Administrative Office of the Courts shall take one (1) of the following actions and shall notify the committee of its decision in writing within thirty (30) days of receiving the committee's notice of disapproval:

(a) Revise the proposal to comply with the committee's objections;

(b) Cancel and take no further action on the proposal; or

(c) Determine to implement the proposal over the committee's objection.

(4) The Administrative Office of the Courts shall report to the Capital Projects and Bond Oversight Committee within thirty (30) days of any action taken by the Court of Justice to approve a scope increase of a project within a pool which would increase the use allowance for that project.

(5) The Capital Projects and Bond Oversight Committee shall maintain records of proposals, findings, decisions, and actions taken under this section. When appropriate, the committee shall provide this information to other legislative committees or to the General Assembly.

SECTION 6. A NEW SECTION OF KRS CHAPTER 26A IS CREATED TO READ AS FOLLOWS:

(1) The Administrative Office of the Courts shall provide to the Capital Projects and Bond Oversight Committee, at the committee's January, April, July, and October regular meetings, a status report on the progress of all incomplete court facilities projects. For each project, the status report shall include:

(a) The project title;

(b) The county in which the project is located;

(c) The scope and use allowance authorized for the project in the judicial branch budget and budget memorandum, and any increases to the scope or use allowance under Section 4 of this Act;

(d) The current status of the project;

(e) An explanation of any delay or major change in the project; and

(f) Any other information that the committee requests.

(2) On August 1 of each year, the Administrative Office of the Courts shall prepare a financial report on the court facility use allowance contingency fund for the fiscal year ending on June 30 of that year. The report shall include, with explanations, allotments, expenditures, encumbrances, and the available balance.

Section 7. KRS 147A.021 is amended to read as follows:

(1) The Department for Local Government shall have the following powers and duties:

(a) To require any reports from local governments that will enable it adequately to provide the technical and advisory assistance authorized by this section.

(b) To encourage, conduct, or participate in training courses in procedures and practices for the benefit of local officials, and in connection therewith, to cooperate with associations of public officials, business and professional organizations, university faculties, or other specialists.

(c) To request assistance and information, which shall be provided by all departments, divisions, boards, bureaus, commissions, and other agencies of state government to enable the department to carry out its duties under this section.

(d) At its discretion, to compile and publish annually a report on local government.

(2) The Department for Local Government shall coordinate for the Governor the state's responsibility for, and shall be responsible for liaison with the appropriate state and federal agencies with respect to, the following programs:

(a) Demonstration cities and metropolitan development act as amended with the exception of Title I of the Housing and Community Development Act of 1974 as amended through 1981;

(b) Farmers Home Administration;

(c) Veterans Administration Act as amended, as it pertains to housing.

(3) The Department for Local Government shall provide technical assistance and information to units of local government, including but not limited to:

(a) Personnel administration;

(b) Ordinances and codes;

(c) Community development;

(d) Appalachian Regional Development Program;

(e) Economic Development Administration Program;

(f) Intergovernmental Personnel Act Program;

(g) Land and Water Conservation Fund Program;

(h) Area Development Fund Program;

(i) Gas System Restoration Project;

(j) Joint Funding Administration Program;

(k) State clearinghouse for A-95 review;

(l) The memorandums of agreement with the area development districts to provide management assistance to local governments; and

(m) The urban development office.

(4) The Department for Local Government shall exercise all of the functions of the state local finance officer provided in KRS Chapters 66, 68, and 131 relating to the control of funds of counties, cities, and other units of local government.

(5) Upon request of the Administrative Office of the Courts, the Department for Local Government shall evaluate the financial condition of any local unit of government selected to participate in a court facilities construction or renovation project under Section 2 of this Act, and shall certify to the Administrative Office of the Courts the local unit of government's ability to participate in the project.

HB 794, AN ACT relating to restitution in criminal cases.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 532.033 is amended to read as follows:

When a judge orders restitution, the judge shall:

(1) Order the restitution to be paid to a specific person or organization through the circuit clerk, who shall disburse the moneys as ordered by the court;

(2) Be responsible for overseeing the collection of restitution;

(3) Set the amount of restitution to be paid;

(4) ***Order interest to be paid on the amount of restitution. Interest shall be calculated from the date of the offense at the rate provided by KRS 360.040;***

(5) Set the amount and frequency of each restitution payment or require the payment to be made in a lump sum;

(6)[~~(5)~~]Monitor the payment of the restitution to assure that payment is being made;

(7)[~~(6)~~]If restitution is not being paid as ordered, hold a hearing to determine why the restitution is not being paid;

(8)[~~(7)~~]If the restitution is not being paid and no good reason exists therefor, institute sanctions against the defendant; and

(9)[~~(8)~~]Not release the defendant from probation supervision until restitution has been paid in full and all other aspects of the probation order have been successfully completed.

The Committee on Agricultural and Small Business reported **HB 722,** with Committee Amendments attached thereto, **HB 758, HB 778, HB 787,** and **SB 139** with House Committee Amendments attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 722, AN ACT relating to fish and wildlife.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 150.395 is amended to read as follows:

(1) No person or group of persons may deliberately cast the rays of a spotlight or other artificial light[~~, with the intent to poach,~~] into any field, pasture, woodlands, or forest, whether public or private, where wildlife or domestic livestock may

reasonably be expected to be located. This section shall not apply to the rays of headlights of vehicles engaged in a normal course of travel; to employees or agents of the department while on official business; to peace officers in the line of duty; to those engaged in legitimate agricultural activities; or to anyone involved in activities legitimate to his business, occupation, or circumstances including lawful hunting activities, or any landowner, his immediate family, or any paid employee while working on his land at that time.

(2) Any person who violates the provisions of this section shall be fined not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000).

The Committee Amendment No. 1 to **HB 722** is as follows:

On page 1, line 10, after "hunting", by inserting "***and fishing***"; and

One page 1, line 12, after "fined", by inserting "***one hundred fifty ($150) dollars, which shall be prepayable***" and by bracketing and striking through "not less than three hundred dollars ($300) nor more than one thousand dollars ($1,000)".

The Committee Amendment No. 2 to **HB 722** is as follows:

On page 1, line 5 after "located", by adding the following new language "***, or into any inhabited building***".

HB 758, AN ACT relating to the licensing of veterinarians.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 321.193 is amended to read as follows:

(1) The board shall issue a license as a "veterinarian" to an applicant who meets the following requirements:
  (a) Has paid the application fee and the appropriate examination fee~~[to the board]~~;
  (b) Is a person of good moral character;
  (c) Has received a degree from a veterinary college approved by the board; ***and***
  (d) Has achieved a passing score, as set by the board, on~~[all portions of the]~~ examinations required by ***administrative regulation promulgated by*** the board~~[; and~~
  ~~(e) Has attended a board sponsored orientation program and oral interview]~~.

(2) The application fee for licensure and examination fee shall be promulgated by administrative regulation of the board.

~~[(3) The examination shall consist of the following parts:~~
  ~~(a) The National Board Examination for Veterinary Medical Licensing;~~
  ~~(b) The Clinical Competency Test in Veterinary Medicine; and~~
  ~~(c) A state examination which covers applicable state and federal law and administrative regulations relative to the practice of veterinary medicine in the Commonwealth of Kentucky.~~

~~(4) All candidates for licensure shall pass all portions of the examination before being issued a license to practice. Candidates who fail to achieve a passing score in one (1) or more areas shall be required to retake and achieve a passing score on only those portions of the examination on which they have previously failed to achieve a passing score.]~~

HB 778, AN ACT relating to commercial feed.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 250.601 is amended to read as follows:

(1) If the director has probable cause ***to believe*** that any of the provisions of KRS 250.491 to 250.631 have been violated, he shall notify the person involved of the alleged violations and designate a time and place for an informal hearing under administrative regulations promulgated by the director. If, after the informal hearing or without the hearing if the person fails to appear, the director determines that a violation has occurred, he may issue a letter of reprimand***, levy a fine,*** or impose any other penalty or sanction authorized under KRS 250.491 to 250.631***, or under Section 2 of this Act***. Any penalty or sanction imposed may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

(2) Nothing in KRS 250.491 to 250.631 shall be construed as requiring the director or his representative to impose a more extreme penalty or sanction as a result of minor violations of KRS 250.491 to 250.631 when he believes the public interest will best be served by the issuance of a letter of reprimand.

(3) If, after completing the hearing procedure contained in subsection (1) of this section, the director has probable cause to

believe that a criminal offense has occurred, he shall report it to the county attorney of the county in which the alleged offense occurred. It shall be the duty of each county attorney to whom any violation is reported to cause appropriate proceedings to be instituted and prosecuted in a court of competent jurisdiction without delay.

(4) The director may petition a court of competent jurisdiction to grant a temporary or permanent injunction restraining any person from violating or continuing to violate any of the provisions of KRS 250.491 to 250.631 or any administrative regulation promulgated under KRS 250.491 to 250.631, notwithstanding the existence of other remedies at law. An injunction shall be issued without bond.

(5) Any person adversely affected by a final order made ***in accordance with***[~~pursuant to~~] subsection (1) of this section may bring action in Fayette Circuit Court for judicial review of the final order in accordance with KRS Chapter 13B.

(6) It shall be unlawful for any person to use to his own advantage, or reveal to other than the director, or officers of the Kentucky agricultural experiment station, or to the courts when relevant in any judicial proceedings, any information acquired under the authority of KRS 250.491 to 250.631, concerning any method, records, formulations, or processes which as a trade secret is entitled to protection.[~~ Provided, that~~] This prohibition shall not be deemed as prohibiting the director, or his duly authorized agent, from exchanging information of a regulatory nature with duly appointed officials of the United States government, or of other states, who are similarly prohibited by law from revealing this information.

Section 2. KRS 250.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 250.021 to 250.111 and KRS 250.361 to 250.461 shall be fined not less than one hundred dollars ($100), nor more than seven hundred fifty dollars ($750).

(2) Any person who shall impede, hinder, or otherwise prevent, or attempt to prevent, the director or his duly authorized agent in the performance of his duty in connection with this chapter, shall be guilty of a Class A misdemeanor.

(3) Any person who violates subsection (6) of KRS 250.601 shall be guilty of a Class B misdemeanor.

(4) Any person who violates any of the provisions of KRS 250.491 to 250.631 may be fined up to one thousand dollars ($1,000) for each violation.

HB 787, AN ACT relating to trust and agency accounts.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 246 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established in the State Treasury a separate trust and agency account to be known as the "Agriculture Promotion Fund" to be administered by the Department of Agriculture for the purposes provided in this section. Any moneys accruing to this fund in any fiscal year shall not lapse but shall be carried forward to the next fiscal year or biennium.

(2) (a) Any moneys deposited in the fund shall be used to purchase materials to promote agriculture in the Commonwealth;

(b) Any moneys received from the sale of promotional materials shall be deposited in the fund; and

(c) The fund may receive state appropriations, gifts, grants, and federal funds.

SB 139, AN ACT relating to the use, sale, and distribution of tobacco products.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 438.305 is amended to read as follows:

As used in KRS 438.305 to 438.340, unless the context requires otherwise:

(1)[~~ "Department" means the Department of Agriculture;~~

~~(2)~~] "Manufacturer" means any person who manufactures or produces tobacco products within or without this Commonwealth;

(2)[~~(3)~~]"Nonresident wholesaler" means any person who purchases cigarettes or other tobacco products directly from the manufacturer and maintains a permanent location or locations outside this state at which Kentucky cigarette tax evidence is attached or from which Kentucky cigarette tax is reported and paid;

(3)[~~(4)~~]"Proof of age" means a driver's license or other documentary or written evidence that the individual is eighteen (18) years of age or older;

(4)[~~(5)~~]"Resident wholesaler" means any person who purchases at least seventy-five percent (75%) of all cigarettes or other tobacco products purchased by that person directly from the cigarette manufacturer on which the cigarette tax provided for in KRS 138.130 to 138.205 is unpaid, and who maintains an established place of business in this state at which the person attaches cigarette tax evidence or receives untaxed cigarettes;

(5)[~~(6)~~]"Sample" means a tobacco product distributed to members of the general public at no cost;

(6)[~~(7)~~]"Subjobber" means any person who purchases tobacco products, on which the Kentucky cigarette tax has been paid, from a wholesaler licensed pursuant to KRS 138.195, and makes them available to a retail establishment for resale.

Section 2. KRS 438.310 is amended to read as follows:

(1) No person shall sell or cause to be sold any tobacco product at retail to any person under the age of eighteen (18), or solicit any person under the age of eighteen (18) to purchase any tobacco product at retail.

(2) Any person who sells tobacco products at retail shall cause to be posted in a conspicuous place in his establishment a notice stating that it is illegal to sell tobacco products to persons under age eighteen (18).

(3) Any person selling tobacco products shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective buyer or recipient is under the age of eighteen (18).

(4) A person who violates subsection (1) or (2) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for a first violation and a fine of not less than five hundred dollars ($500) nor more than one thousand dollars ($1,000) for any subsequent violation. The fine shall be administered by the Department ***of Alcoholic Beverage Control*** using a civil enforcement procedure.

Section 3. KRS 438.311 is amended to read as follows:

(1) Except for the provisions of KRS 438.330, it shall be unlawful for a person who has not attained the age of eighteen (18) years to purchase or accept receipt of or to attempt to purchase or accept receipt of a tobacco product, or to present or offer to any person any purported proof of age which is false, fraudulent, or not actually his or her own, for the purpose of purchasing or receiving any tobacco product. It shall not be unlawful for such a person to accept receipt of a tobacco product from a family member, or from an employer when required in the performance of the person's duties.

(2) Violation of this section shall be punishable by a fine of fifty dollars ($50) and twenty (20) hours of community service work for a first offense within a one (1) year period, and a fine of two hundred dollars ($200) and forty (40) hours of community service work for a second or subsequent offense within a one (1) year period.

(3) This offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Department ***of Alcoholic Beverage Control*** may issue a uniform citation, but not make an arrest or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to the section, the court may compel the attendance of the defendant in the manner specified by law.

Section 4. KRS 438.313 is amended to read as follows:

(1) No wholesaler, retailer, or manufacturer of cigarettes or tobacco products may distribute cigarettes or tobacco products, including samples thereof, free of charge or otherwise, to any person under the age of eighteen (18).

(2) Any person who distributes cigarettes or tobacco products, including samples thereof, free of charge or otherwise shall require proof of age from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) Any person who violates the provisions of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500) for each offense. The fine shall be administered by the Department ***of Alcoholic Beverage Control*** using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the jurisdiction of the juvenile session of the District Court.

(4) All peace officers with general law enforcement authority and employees of the Department ***of Alcoholic Beverage Control*** may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 5. KRS 438.315 is amended to read as follows:

(1) The sale of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(2) The purchase of tobacco products dispensed through a vending machine is prohibited to any person under the age of eighteen (18) years.

(3) Except for vending machines located in factories or vending machines located in bars or taverns to which minors are not permitted access, beginning one (1) year after July 15, 1994, any vending machine from which tobacco products are dispensed shall be located in the line of sight of the cashier for the retail establishment.

(4) Any owner of a retail establishment violating this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be administered by the Department ***of Alcoholic Beverage Control*** using a civil enforcement procedure for persons eighteen (18) years of age or older. For persons under the age of eighteen (18) years, the offense shall be deemed a status offense and shall be under the

jurisdiction of the juvenile session of the District Court.

(5) All peace officers with general law enforcement authority and employees of the Department ***of Alcoholic Beverage Control*** may issue a uniform citation, but may not make an arrest, or take a child into custody, for a violation of this section. If a child fails to appear in court in response to a uniform citation issued pursuant to this section, the court may compel the attendance of the defendant in the manner specified by law.

Section 6. KRS 438.317 is amended to read as follows:

(1) No person shall sell or cause to be sold at retail cigarettes packaged in units of fewer than twenty (20) cigarettes.

(2) No resident wholesaler, nonresident wholesaler, or subjobber shall make available to a retail establishment cigarettes packaged for retail sale in units of less than twenty (20) cigarettes.

(3) Any person violating subsection (1) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Any person violating subsection (2) of this section shall be fined not less than one thousand dollars ($1,000) nor more than two thousand five hundred dollars ($2,500). These penalties shall be enforced by the Department ***of Alcoholic Beverage Control*** through civil enforcement procedures.

Section 7. KRS 438.320 is amended to read as follows:

Each resident wholesaler, nonresident wholesaler, or subjobber making tobacco products available to a retail establishment for sale or distribution shall report the name and address of the owner of the retail establishment to the Department ***of Alcoholic Beverage Control*** in a manner specified by administrative regulations promulgated pursuant to KRS Chapter 13A.

Section 8. KRS 438.325 is amended to read as follows:

(1) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that the sale of tobacco products to any person under the age of eighteen (18) years and the purchase of tobacco products by any person under the age of eighteen (18) years are prohibited.

(2) Each owner of a retail establishment selling or distributing tobacco products shall notify each individual employed in the retail establishment as a retail sales clerk that proof of age is required from a prospective buyer or recipient if the person has reason to believe that the prospective purchaser or recipient is under the age of eighteen (18).

(3) The notice to employees that is required in subsection (1) of this section shall be provided before the person commences work as a retail sales clerk, or, in the case of a person employed as a retail sales clerk on July 15, 1994, within thirty (30) days of that date. The employee shall signify receipt of the notice required by this section by signing a form that states as follows:

"I understand that under the law of the Commonwealth of Kentucky it is illegal to sell or distribute tobacco products to persons under the age of eighteen (18) years and that it is illegal for persons under the age of eighteen (18) years to purchase tobacco products."

(4) The owner of the retail establishment shall maintain the signed notice that is required pursuant to subsection (3) of this section in a place and in a manner so as to be easily accessible to any~~[department]~~ employee ***of the Department of Alcoholic Beverage Control or the Department of Agriculture*** conducting an inspection of the retail establishment for the purpose of monitoring compliance in limiting the sale or distribution of tobacco products to persons under the age of eighteen (18) as provided in KRS 438.305 to 438.340.

(5) Any owner of the retail establishment violating subsections (1) to (4) of this section shall be subject to a fine of not less than one hundred dollars ($100) nor more than five hundred dollars ($500) for each violation. The fine shall be administered by the Department ***of Alcoholic Beverage Control*** in a civil enforcement procedure.

SECTION 9. A NEW SECTION OF KRS 438.305 TO 438.340 IS CREATED TO READ AS FOLLOWS:

(1) Except for violations of the provisions of Sections 3, 4, and 5 of this Act by a juvenile, which shall be under the jurisdiction of the juvenile session of the District Court, the Department of Alcoholic Beverage Control shall carry out the enforcement provisions of KRS 438.305 to 438.340.

(2) The Department of Alcoholic Beverage Control shall be entitled to the revenue produced by one-twentieth of one cent ($0.0005) of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140, and to keep fifty percent (50%) of any fines collected under KRS 438.305 to 438.340 to offset the costs of enforcement of KRS 438.305 to 438.340.

(3) The Department of Alcoholic Beverage Control shall be responsible for maintaining statistics for compilation of required reports to be submitted to the United States Department of Health and Human Services.

(4) The Department of Alcoholic Beverage Control shall devise a plan and time frame for enforcement to determine by random inspection if the percentage of retailers or distributors making illegal sales to minors does or does not exceed federal guidelines preventing tobacco sales to minors.

Section 10. KRS 438.330 is amended to read as follows:

(1) The Department ***of Alcoholic Beverage Control and the Department of Agriculture*** shall carry out annually-conducted random, unannounced inspections of retail establishments where tobacco products are sold or distributed for the purpose

of enforcing the provisions of KRS 438.305 to 438.340. The inspections shall be conducted to the extent necessary to assure that the Commonwealth remains in compliance with Public Law 102-321 and applicable federal regulations. The ***departments***[~~department~~] shall also ensure that targeted inspections are conducted at those retail establishments where, and at those times when, persons under the age of eighteen (18) years are most likely to purchase tobacco products. Persons under the age of eighteen (18) years may be used to test compliance with the provisions of KRS 438.305 to 438.340 only if the testing is conducted under the direct supervision of the Department ***of Alcoholic Beverage Control***, sheriff, or chief of police, or their employees, and written parental consent has been obtained. The Department ***of Alcoholic Beverage Control*** shall prepare annually, for submission by the Governor to the Secretary of the United States Department of Health and Human Services, the report required by Section 1926 of Subpart 1 of Part B of Title XIX of the Federal Public Health Service Act.

(2) The Department of ***Alcoholic Beverage Control***[~~Agriculture~~] shall develop and implement the survey sampling methodologies to carry out the inspections as described in this section.

Section 11. KRS 438.335 is amended to read as follows:

[~~Except for the provisions of KRS 438.311 and for the provisions of KRS 438.311 and 438.315, if committed by juveniles, which shall be under the jurisdiction of the juvenile session of the District Court,~~]The Department of Agriculture shall ***carry out the provisions of***[~~enforce~~] KRS 438.305 to 438.340 ***as they relate to educating the public and sellers of tobacco products about provisions and penalties of KRS 438.305 to 438.340***. The Department ***of Agriculture*** shall be entitled to the revenue produced by ***one-twentieth***[~~one-tenth~~] of one cent ***($0.0005)***[~~($0.001)~~] of the three-cent ($0.03) per pack revenue collected by the Revenue Cabinet from the state excise tax on the sale of cigarettes as imposed by KRS 138.140 and ***to*** keep ***fifty***[~~one hundred~~] percent ***(50%)***[~~(100%)~~] of any fines collected under KRS 438.305 to 438.340 to offset the costs of ***these education efforts***[~~enforcement of KRS 438.305 to 438.340~~].

Section 12. KRS 438.340 is amended to read as follows:

The ***Department of Alcoholic Beverage Control and the Department of Agriculture are***[~~department is~~] authorized to promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to implement and carry out the provisions of KRS 438.305 to 438.340.

The House Committee Amendment No. 1 to **SB 139** is as follows:

On page 8, after line 23, by inserting "Section 13. KRS 365.390 is amended to read as follows:

(1) To provide for the enforcement of[~~ KRS 138.146 and~~] KRS 365.260 to 365.380, every cigarette wholesaler licensed under KRS 138.195 shall pay an enforcement [~~and administration~~] fee to the ***Department of Alcoholic Beverage Control***[~~Revenue Cabinet~~] on a monthly basis for each package of twenty (20) cigarettes to which evidence of Kentucky cigarette tax was affixed during the month as required by KRS 138.146. The enforcement [~~and administration~~] fee to recover applicable costs shall be calculated annually by the ***Commissioner of Alcoholic Beverage Control***[~~secretary of revenue~~] who shall give notice thereof to licensed wholesalers who shall be liable for its payment. Payments to the ***Department of Alcoholic Beverage Control***[~~Revenue Cabinet~~] shall be made according to provisions of KRS 138.195 and shall be subject to the same penalties and interest as levied on Kentucky cigarette tax not paid on or before the due date.

(2) There is hereby created within the ***Department of Alcoholic Beverage Control***[~~Revenue Cabinet~~] a cigarette enforcement [~~and administration~~] account, which will be subject to the provisions of the restricted fund group, as provided in KRS 45.305, and all funds collected under subsection (1) of this section shall be credited thereto with only the expenses of the ***Department of Alcoholic Beverage Control***[~~Revenue Cabinet~~] related to the [~~administration and~~]enforcement of[~~ KRS 138.146 and~~] KRS 365.260 to 365.380 to be paid therefrom.

(3) The enforcement [~~and administration~~] fee levied in subsection (1) of this section shall be deemed to be an additional cost to be included in the basic cost of cigarettes as defined in KRS 365.270.

Section 14. KRS 365.270 is amended to read as follows:

As used in KRS 365.260 to 365.380, unless the context otherwise requires:

(1) "Person" means and includes any individual, firm, association, company, partnership, corporation, joint stock company, club, agency, syndicate, the Commonwealth of Kentucky, and any municipal corporation or other political subdivision of this state, trust, receiver, trustee, fiduciary, or conservator.

(2) ***"Commissioner" means the Commissioner of the Department of Alcoholic Beverage Control***[~~"Secretary" means the secretary of the Revenue Cabinet~~] of the Commonwealth of Kentucky.

(3) ***"Department" means the Department of Alcoholic Beverage Control***[~~"Cabinet" means the Revenue Cabinet~~].

(4) "Cigarettes" means and includes any roll for smoking made wholly or in part of tobacco, irrespective of size or shape and whether or not the tobacco is flavored, adulterated, or mixed with any other ingredient, the wrapper or cover of which is made of paper or any other substance or material, excepting tobacco.

(5) "Wholesaler" means any person who sells cigarettes at wholesale or distributes cigarettes to be sold at retail, and includes

any manufacturer, distributor, jobber, subjobber as defined in KRS 138.130(11), broker, agent, or other person, whether or not enumerated in this subsection, who sells or distributes cigarettes.

(6) "Retailer" means and includes any person who sells cigarettes in this state to a consumer or to any person for any purpose other than resale.

(7) "Sale" or "sell" means any transfer for consideration or gift.

(8) "Sell at wholesale," "sale at wholesale," and "wholesale sales" mean and include any sale made in the ordinary course of trade or usual conduct of the wholesaler's business to a retailer for the purpose of resale.

(9) "Sell at retail," "sale at retail," or "retail sales" mean and include any sale for consumption or use made in the ordinary course of trade or usual conduct of the seller's business.

(10) "Basic cost of cigarettes" means the invoice cost of cigarettes to the wholesaler or retailer, as the case may be, less all trade discounts, except customary cash discounts, plus the full face value of any stamps or any tax which may be required by any cigarette tax act of this state or political subdivision thereof, now in effect or hereafter enacted, if not already included in the invoice cost of the cigarettes to the wholesaler or retailer, as the case may be.

(11) (a) "Cost to wholesaler" means the basic cost of the cigarettes involved to the wholesaler plus the cost of doing cigarette business by the wholesaler. In determining the cost of doing cigarette business by the wholesaler, the cost of doing business by the wholesaler shall first be determined by applying the standards and methods of accounting regularly employed by him, and includes labor costs, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the wholesaler shall then be multiplied by the fraction obtained through dividing the wholesaler's cigarette sales for the preceding six (6) months by the wholesaler's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the wholesaler making the sale, the cost of doing cigarette business by the wholesaler shall be presumed to be two percent (2%) of the basic cost of the cigarettes to the wholesale dealer, plus cartage to the retail outlet, if performed or paid for by the wholesale dealer. Cartage cost, in the absence of proof of a lesser or higher cost, shall be presumed to be three-fourths of one percent (0.75%) of the basic cost of the cigarettes to the wholesaler.

(12) (a) "Cost to the retailer" means the basic cost of cigarettes involved to the retailer plus the cost of doing cigarette business by the retailer. In determining the cost of doing cigarette business by the retailer, the cost of doing business by the retailer shall first be determined by applying the standards and methods of accounting regularly employed by him and includes labor, including salaries of executives and officers, rent, depreciation, selling costs, maintenance of equipment, delivery costs, all types of licenses, taxes, insurance, and advertising. The cost of doing business by the retailer shall then be multiplied by the fraction obtained through dividing the retailer's cigarette sales for the preceding six (6) months by the retailer's total sales for the same period and the product thereof shall be the cost of doing cigarette business.

(b) In the absence of proof of a lesser or higher cost of doing cigarette business by the retailer making the sale, the cost of doing cigarette business by the retailer shall be presumed to be eight percent (8%) of the basic cost of cigarettes to the retailer.

Section 15. KRS 365.350 is amended to read as follows:

(1) The ***department***~~[cabinet]~~, or any person injured by any violation, or who may suffer injury from any threatened violation of KRS 365.260 to 365.380, may maintain an action in any court of equitable jurisdiction to prevent, restrain, or enjoin the violation or threatened violation. If a violation or threatened violation of KRS 365.260 to 365.380 shall be established, the court shall enjoin and restrain, or otherwise prohibit, the violations or threatened violation. In addition, the court shall assess in favor of the plaintiff and against the defendant the cost of the suit, including reasonable attorney's fees. It shall not be necessary that actual damages to the plaintiff be alleged or proved, but if alleged and proved, the plaintiff in the action, in addition to injunctive relief, the costs of the suit, and reasonable attorney's fees, shall be entitled to recover from the defendant the actual damages sustained by him.

(2) If no injunctive relief is sought or required, any person injured by a violation of KRS 365.260 to 365.380 may maintain an action for damages and the costs of suit in any court of general jurisdiction.

Section 16. KRS 365.370 is amended to read as follows:

(1) The ***department***~~[cabinet]~~ shall promulgate administrative regulations for the enforcement of KRS 365.260 to 365.380 and may from time to time undertake and make or cause to be made one (1) or more cost surveys for the state or trading area or areas as it defines. When each survey is made by or approved by the ***department***~~[cabinet]~~, it may use the cost survey as provided in subsection (2) of KRS 365.320 and subsection (2) of 365.360.

(2) The ***department***~~[cabinet]~~ may, upon notice and after hearing, revoke or suspend any license issued under KRS 138.195 and the administrative regulations of the ***department***~~[cabinet]~~ promulgated thereunder, for failure of any person to comply with any provisions of KRS 365.260 to 365.380 or any administrative regulation adopted thereunder.

(3) All of the powers vested in the ***commissioner and the Department of Alcoholic Beverage Control***[~~secretary and Revenue Cabinet~~] by the provisions of the cigarette tax law shall be available for the enforcement of KRS 365.260 to 365.380.

(4) Any person aggrieved by any decision, order, or finding of the ***department***[~~cabinet~~], suspending or revoking any license, may appeal to the Kentucky Board of Tax Appeals by filing a petition of appeal with the board in the manner and form and within the time and subject to the terms and conditions as the board shall by administrative regulation prescribe.

Section 17. KRS 138.195 is amended to read as follows:

(1) No person other than a manufacturer shall acquire cigarettes in this state on which the Kentucky cigarette tax has not been paid, nor act as a resident wholesaler, nonresident wholesaler, vending machine operator, sub-jobber, transporter or unclassified acquirer of such cigarettes without first obtaining a license from the ***Department of Alcoholic Beverage Control***[~~cabinet~~] as set out in this section.

(2) Each resident wholesaler shall secure a separate license for each place of business at which cigarette tax evidence is affixed or at which cigarettes on which the Kentucky cigarette tax has not been paid are received. Each nonresident wholesaler shall secure a separate license for each place of business at which evidence of Kentucky cigarette tax is affixed or from where Kentucky cigarette tax is reported and paid. Such a license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(3) Each sub-jobber shall secure a separate license for each place of business from which Kentucky tax-paid cigarettes are made available to retailers, whether such place of business is located within or without this state. Such license or licenses shall be secured on or before July 1 of each year, and each licensee shall pay the sum of five hundred dollars ($500) for each such year or portion thereof for which such license is secured.

(4) Each vending machine operator shall secure a license for the privilege of dispensing Kentucky tax-paid cigarettes by vending machines. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of twenty-five dollars ($25) for each year or portion thereof for which such license is secured. No vending machine shall be operated within this Commonwealth without having prominently affixed thereto the name of its operator, together with the license number assigned to such operator by the ***department***[~~cabinet~~]. The ***department***[~~cabinet~~] shall prescribe by regulation the manner in which the information shall be affixed to the vending machine.

(5) Each transporter shall secure a license for the privilege of transporting cigarettes within this state. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured. No transporter shall transport any cigarettes without having in actual possession an invoice or bill of lading therefor, showing the name and address of the consignor and consignee, the date acquired by the transporter, the name and address of the transporter, the quantity of cigarettes being transported, together with the license number assigned to such transporter by the ***department***[~~cabinet~~].

(6) Each unclassified acquirer shall secure a license for the privilege of acquiring cigarettes on which the Kentucky cigarette tax has not been paid. Such license shall be secured on or before July 1 of each year, and each licensee shall pay the sum of fifty dollars ($50) for each such year or portion thereof for which such license is secured.

(7) Nothing in KRS 138.130 to 138.205 shall be construed to prevent the ***department***[~~cabinet~~] from requiring a person to purchase more than one (1) license if the nature of such person's business is so diversified as to justify such requirement.

(8) The ***department***[~~cabinet~~] may by regulation require any person licensed under the provisions of this section to supply such information concerning his business, sales or any privilege exercised, as is deemed reasonably necessary for the regulation of such licensees, and to protect the revenues of the state. Failure on the part of such licensee to comply with the provisions of KRS 138.130 to 138.205 or any regulations promulgated thereunder, or to permit an inspection of premises, machines or vehicles by an authorized agent of the ***department***[~~cabinet~~] at any reasonable time shall be grounds for the revocation of any license issued by the ***department***[~~cabinet~~], after due notice and a hearing by the ***department***[~~cabinet~~]. The ***Commissioner of the Department of Alcoholic Beverage Control***[~~secretary of revenue~~] may assign a time and place for such hearing and may appoint a conferee who shall conduct a hearing, receive evidence and hear arguments. Such conferee shall thereupon file a report with the ***commissioner***[~~secretary~~] together with a recommendation as to the revocation of such license. From any revocation made by the ***commissioner***[~~secretary of revenue~~] on such report, the licensee may prosecute an appeal to the Kentucky Board of Tax Appeals as provided by law. Any person whose license has been revoked for the willful violation of any provision of KRS 138.130 to 138.205 shall not be entitled to any license provided for in this section, or have any interest in any such license, either disclosed or undisclosed, either as an individual, partnership, corporation or otherwise, for a period of one (1) year after such revocation.

(9) No license issued pursuant to the provisions of this section shall be transferable or negotiable except that a license may be transferred between an individual and a corporation, if that individual is the exclusive owner of that corporation, or between a subsidiary corporation and its parent corporation.

(10) Every manufacturer located or doing business in this state shall keep written records of all shipments of cigarettes to persons within this state, and shall submit reports of such shipments as the ***department***[~~cabinet~~] may require by regulation.

(11) No person licensed under this section except nonresident wholesalers shall either sell to or purchase from any other such

licensee untax-paid cigarettes.

(12) The department shall coordinate as necessary with the Revenue Cabinet to protect the revenues of the state."

The House Committee Amendment No. 2 to **SB 139** is as follows:

On page 7, line 3, after "*KRS 138.140*" by inserting "*to be deposited in a trust and agency account created in the State Treasury*".

Motions, Petitions, and Communications (Continued)

Representative Crall moved the adoption of the following **Legislative Citation No. 82**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Kenneth Baughn and offers its sincerest condolences to the Baughn family and to all those who continue to share in the loss of this distinguished Kentucky citizen. A devoted educator who began his career in 1965 as a teacher and coach in Hart County, Kentucky; he served as a teacher, coach and elementary principal in Ohio County; as a teacher and coach in the Greenville Independent Schools; and as a teacher, coach, guidance counselor, high school assistant principal, high school principal and elementary principal in Daviess County. Choosing not to retire and to continue serving as an educator, Kenneth Baughn died while still devoting himself to the education of the youth of this great Commonwealth. A devoted family man, he lived his life with the sincere devotion to his fellow citizens and left all those whose lives were touched by his countenance with a legacy of honorable and distinguished service. The esteemed members of this honorable body do solemnly join with Representative Brian Crall in honoring the memory of Kenneth Baughn for the valuable contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this second day of March, in the year two thousand.

Legislative Citation No. 82 was adopted without objection.

Representative Branham moved the adoption of the following **HR 137**:

HR 137, A RESOLUTION in support of multiple sclerosis awareness.

WHEREAS, multiple sclerosis affects approximately 300,000 people in the United States and approximately 200 new cases are diagnosed each week; and

WHEREAS, most people experience their first symptoms of multiple sclerosis between the ages of 20 and 40, but a diagnosis is often delayed; and

WHEREAS, multiple sclerosis is a life-long chronic disease in young adults who have a virtually normal life expectancy; and

WHEREAS, estimated annual economic, social, and medical costs of multiple sclerosis in the United States are in excess of $2.5 billion; and

WHEREAS, multiple sclerosis was first diagnosed in 1849, but there is currently no known cure; and

WHEREAS, multiple sclerosis is a disease of the central nervous system that interferes with the brain's ability to send and receive messages which may result in symptoms including vision loss, poor coordination, problems with memory, and partial or complete paralysis of any part of the body; and

WHEREAS, treatments for multiple sclerosis including medication, can slow the course of the disease; and

WHEREAS, physical, occupational, and speech therapies, and counseling can control symptoms so that many people with multiple sclerosis can live independent, comfortable, and productive lives;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. The House of Representatives hereby urges public awareness through increased public education on the causes, symptoms, and treatments for multiple sclerosis.

Section 2. The House of Representatives encourages the Cabinet for Health Services to perform outreach activities to educate people with multiple sclerosis and their loved ones about access to quality health care, affordable health insurance coverage, long-term care alternatives, and disability rights.

Section 3. The Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Ira Branham for presentation to the Secretary of the Cabinet for Health Services.

There being no objection **HR 137** was adopted.

Representative DeWeese moved that **HB 932** be withdrawn. Agreed.

Representative Yonts moved that **HB 31** be withdrawn. Agreed.

Representative J. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Adams moved that his vote be changed from "yea" to "nay" on **HB 584**. Agreed.

Representative J. Turner moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative J. Turner moved that his vote be changed from "nay" to "yea" on **HCR 54**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HB 565**. Agreed.

Representative Thompson moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Thompson moved that he be recorded as voting "yea" on **HCR 54**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that his vote be changed from "nay" to "yea" on **HB 565**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that his vote be changed from "yea" to abstain on **HB 568**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 696**. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **SJR 17**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 584**. Agreed.

Representative Palumbo moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Palumbo moved that her vote be changed from "yea" to "nay" on **HB 568**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that his vote be changed from "yea" to "nay" on **HB 568**. Agreed.

Representative R. Adams moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative R. Adams moved that his vote be changed from "yea" to abstain on **HB 656**. Agreed.

Representative Vincent moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Vincent moved that he be recorded as voting "nay" on **HB 656**. Agreed.

Representative Nunn moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nunn moved that he be recorded as voting "nay" on **HB 656**. Agreed.

Representative Cherry moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Cherry moved that he be recorded as voting "yea" on **HB 665**. Agreed.

Representative Nunn moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Nunn moved that he be recorded as voting "yea" on **HB 618, HB 116,** and **HCR 112**. Agreed.

Representative Callahan moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Callahan moved that he be recorded as voting "yea" on **HB 641, HB 161,** and **HB 568**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 584** and **HB 568**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 3 to the Committee Substitute to **HB 691**, by Representative Vincent:

On page 2, line 15, before the word "*reckless*" insert "*negligent,*"; and

On page 2, line 15, after the word "*reckless*" insert a comma "*,*".

Floor Amendment No. 4 to the Committee Substitute to **HB 691**, by Representative Vincent:

On page 1, lines 15 through 18, by deleting lines 15 through 18 in their entirety; and

On page 1, line 19, by renumbering subsection "*(2)*" as subsection "*(1)*"; and

On page 1, line 25, by renumbering subsection "*(3)*" as subsection "*(2)*"; and

On page 2, line 1, after the word "*subsection*" by renumbering "*(2)*" as "*(1)*"; and

On page 2, line 4, after the word "*subsection*" by renumbering "*(2)*" as "*(1)*"; and

On page 2, line 5, by renumbering subsection "*(4)*" as subsection "*(3)*"; and

On page 2, line 16, by renumbering subsection "*(5)*" as subsection "*(4)*"; and

On page 2, line 23, by renumbering subsection "*(6)*" as subsection "*(5)*".

Floor Amendment No. 1 to the Committee Substitute to **HB 691**, by Representative Vincent:

On page 1, line 6, after "*vehicles*" insert "*in transit*".

Floor Amendment No. 2 to the Committee Substitute to **HB 691**, by Representative Vincent:

On page 2, line 16, before the word "*responsible*" insert "*found*"; and

On page 2, line 18, after the word "*section*" insert "*by consent of the operator or owner, a court of competent jurisdiction, or by administrative tribunal*".

Floor Amendment No. 2 to the House Committee Substitute to **SJR 57**, by Representative Feeley:

On page 1, by deleting the last line on page 1; and

On pages 2, 3, 4, 5, and 6, by deleting all material on those pages in their entirety; and

On page 7, by deleting the first nine lines of text on page 7, and by deleting the word "and" at the end of the twelfth line of text, and by deleting the last two "whereas" clauses on page 7; and

On page 8, by deleting all material on page 8 except the words "NOW, THEREFORE," on the last line on page 8.

Floor Amendment No. 7 to the Committee Substitute to **HB 1**, by Representative Stumbo:

An page 1 after the enacting clause to page 16, line 3, by deleting sections 1 through 18 in their entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Bottler" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each bottler location shall be considered a separate bottler;

(2) "Beverage distributor" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each beverage distribution location shall be considered a separate beverage distributor;

(3) "Distributor" means any person who distributes goods or property other than containers with beverages to a retailer;

(4) "Manufacturer" means any person who manufactures, fabricates, produces, processes, assembles, combines, or takes any other action upon any product or property to create a new, different, or modified product that may be sold at wholesale or retail, or may be acted upon further by another process; and

(5) "Retailer" means any person who sells goods or property for use or consumption. Each retail location shall be considered a separate retailer.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every distributor, beverage distributor, bottler, manufacturer, and retailer conducting business as defined at KRS 139.040 in this state, shall pay an environmental impact fee annually based upon their annual gross receipts for sales in the Commonwealth. Each bottler location, beverage distributor location, and retail location shall pay the annual impact fee based upon annual gross receipts for sales at that location only. The amount of the fee shall be as follows:

(a) For gross receipts in excess of ten million dollars ($10,000,000), the fee shall be two thousand dollars ($2,000);

(b) For gross receipts of at least one million dollars ($1,000,000) but not more than ten million dollars ($10,000,000), the fee shall be one thousand five hundred dollars ($1,500);

(c) For gross receipts of at least five hundred thousand dollars ($500,000) but not more than one million dollars ($1,000,000), the fee shall be one thousand dollars ($1,000);

(d) For gross receipts of at least one hundred thousand dollars ($100,000) but not more than five hundred thousand dollars ($500,000), the fee shall be five hundred dollars ($500);

(e) For gross receipts of less than one hundred thousand dollars ($100,000), there shall be no fee.

(2) No distributor or manufacturer, regardless of the number of locations, shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually. No bottler location, beverage distributor location, or retail location shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Kentuckians Against Trash Fund" is hereby created in the State Treasury of the Commonwealth to be administered by the Revenue Cabinet and overseen by the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. All payments collected under Sections 2 and 9 of this Act shall be deposited in the Kentuckians Against Trash fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

(a) Eighteen percent (18%) to be used by the Department of Transportation for cleanup of litter along interstates and state highways, including rural secondary roads;

(b) Thirty percent (30%) to be distributed to the governing body of the one hundred and twenty (120) counties based on the number of miles of county and rural secondary roads within each county for cleanup of roadside litter on roads other than interstates, state highways, and rural secondary roads;

(c) Thirty-eight percent (38%) to be distributed to the governing body of counties based on county population as determined by the most recent decennial census of the United States Census Bureau, except that the governing body of counties with cities of the first, second, third, and fourth classes shall divide the money between the county and the cities based on a per capita basis based on county and city population as determined by the most recent decennial census of the United States Census Bureau. In the first year of receiving fund money, a governing body of counties without established universal garbage collection shall use the money to implement a universal garbage collection program. No governing body shall use fund money at any time to supplement solid waste pick-up fees other than for low income households as defined by the cabinet. The priority of application and use of the moneys for governing bodies of counties with established universal garbage collection programs, and for governing bodies of counties without established universal garbage collection programs for subsequent years after the first year, shall be as follows:

1. Maintenance of universal garbage collection as defined in Section 19 of this Act;

2. Cleanup of illegal dumps;

3. Development or expansion of recycling programs, including the purchase of infrastructure and equipment necessary for recycling;

4. Solid waste and recycling education; and

5. Additional solid waste or recycling programs and activities as approved by the cabinet.

(d) Ten percent (10%) to be used by the Legislative Research Commission for producing, purchasing, and airing public service announcements to reduce litter and encourage recycling;

(e) Two percent (2%) to be placed in the Adopt-a-Highway Fund created in Section 11 of this Act and used by the Department of Transportation Adopt a Highway program;

(f) One percent (1%) to be used by the Revenue Cabinet for administrative costs associated with collecting and distributing the environmental fee; and

(g) One percent (1%) to be used by the Natural Resources and Environmental Protection Cabinet for administrative

costs associated with reviewing county solid waste management plans and promulgating reporting requirements.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentuckians Against Trash Oversight Committee that shall consist of nineteen (19) members appointed by the Legislative Research Commission. Members shall include the following:

(a) Four (4) members of the General Assembly, two (2) of whom shall be members of the House and two (2) of whom shall be members of the Senate. Two (2) of the members shall serve on the Interim Joint Committee on Agriculture and Natural Resources. One (1) member of the House and one (1) member of the Senate shall serve as co-chairs of the committee;

(b) One (1) representative of the Natural Resources and Environmental Protection Cabinet;

(c) One (1) representative of the Transportation Cabinet;

(d) One (1) representative of the Environmental Quality Commission;

(e) One (1) representative of the Kentucky League of Cities;

(f) One (1) representative of the Kentucky Association of Counties;

(g) One (1) representative of the Solid Waste Coordinators of Kentucky;

(h) One (1) representative of the Kentucky Resources Council;

(i) One (1) representative of the Kentucky Farm Bureau;

(j) One (1) representative of the Kentucky Scrap Processors and Recyclers Association;

(k) One (1) representative of the Bluegrass Regional Recycling Corporation;

(l) One (1) representative of the Kentucky Retail Federation;

(m) One (1) representative of the Kentucky Beer Wholesalers Association;

(n) One (1) representative of the Kentucky Bottlers Association;

(o) One (1) representative of the Kentucky Grocers Association; and

(p) One (1) representative of the Wine and Spirits Wholesalers of Kentucky.

(2) Of the twelve (12) members identified in paragraphs (e) to (p) of subsection (1) of this section and first appointed, four (4) shall continue as members for terms of one (1) year, four (4) for terms of two (2) years, and four (4) for terms of three (3) years, as the Legislative Research Commission designates. At the expiration of the original terms and for all succeeding terms, the Legislative Research Commission shall appoint a successor to the committee for a term of three (3) years. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(3) Ten (10) members shall constitute a quorum.

(4) The committee shall meet at least once every three (3) months, the time and place to be determined by the co-chairs of the committee. The committee shall keep an accurate record of its proceedings.

(5) Staff services shall be provided by the Legislative Research Commission.

(6) The members shall serve without compensation but may receive reimbursement from the Legislative Research Commission for their actual and necessary expenses to attend committee meetings.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The committee shall review reports from the Legislative Research Commission and from the cabinets that receive money according to Section 3 of this Act. These reports shall include a breakdown of the use of fund money. The Revenue Cabinet and the Natural Resources and Environmental Protection Cabinet shall report how the money is used for administrative costs. The Legislative Research Commission shall report on the use of fund money for, and the status of, the public service announcement campaign. The Transportation Cabinet shall report on the use of fund money and progress made by the Adopt-A-Highway program. These reports shall be filed with the committee by July 31 of each year, beginning with July 31, 2002.

(2) A governing body shall file a report as required by the cabinet according to Section 8 of this Act. The reports shall contain information about how the money is appropriated in counties and cities, the progress made in reducing litter, the status of county or city solid waste management activities, and any additional information the committee may request.

(3) The committee shall issue a report to the Legislative Research Commission by September 30 of every odd-numbered year that includes a breakdown of the use of fund money, the progress made in reducing litter, the status of the public service announcement campaign, and any additional findings of the committee. The report may make

recommendations to the General Assembly on ways to further the goals and purposes of Sections 1 to 10 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A governing body shall demonstrate in its solid waste management plan or on other forms prescribed by the cabinet, how its area shall use the fund money received under Section 3 of this Act. The governing body shall demonstrate how the intended use of fund money fits within the area solid waste management plan required by KRS 224.43-345, or update the plan accordingly. The cabinet shall approve the governing body's intended use of fund money before it is eligible to receive money to ensure that the intended use complies with the priorities established in subsection (2) of Section 3 of this Act.

(2) The cabinet may promulgate administrative regulations to carry out the requirements of this section.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the Kentuckians Against Trash Fund and the cost of the audit shall be considered an administrative cost to be borne by the Revenue Cabinet. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Interim Joint Committee on Agriculture and Natural Resources.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Governing bodies receiving moneys according to Section 3 of this Act shall establish a line item in their budget to account for the money received. A proposed county budget required in KRS 68.240 shall include anticipated money to be received under Section 3 of this Act.

(2) The cabinet shall establish by administrative regulations reporting requirements for expenditure of funds and receipt of unobligated funds by governing bodies. If a governing body fails to comply with the requirements of these administrative regulations, money from the fund shall be withheld from the governing body for the next year.

(3) The cabinet shall prepare and furnish summaries of reports to the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. The committee may request a copy of the original report required in this section.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any bottler, beverage distributor, distributor, manufacturer, or retailer who violates Section 2 of this Act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for an initial offense and not more than five thousand dollars ($5,000) for each subsequent offense. Each day that a person violates Section 2 of this Act shall constitute a separate offense.

(2) All moneys collected under this section shall be deposited in the Kentuckians Against Trash Fund.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act shall automatically be repealed and all requirements set forth therein, including without limitation the environmental impact fees created by Section 2 of this Act, along with any administrative regulations promulgated according to Sections 1 to 10 of this Act, shall terminate immediately upon enactment of any Constitutional amendment, law, or administrative regulation which in any manner establishes a refund value, required deposit, or similar requirement for beverage or other similar containers sold in the Commonwealth."; and

Renumber subsequent sections accordingly; and

On page 16, lines 22 and 23, by deleting them in their entirety; and

On page 16, line 24, by changing "*(5)*" to "*(4)*"; and

On page 17, line 27, by changing "*25*" to "*17*"; and

On page 18, line 3, by changing "*25*" to "*17*"; and

On page 18, line 21, by changing "*22*" to "*14*"; and

On page 19, line 16, by changing "*22*" to "*14*"; and

On page 20, line 13, by changing "*22*" to "*14*"; and

On page 20, line 17, by changing "*20*" to "*12*"; and

On page 20, line 18, by changing "*22*" to "*14*"; and

On page 20, line 21, by changing "*22*" to "*14*"; and

On page 30, lines 17 and 18, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 30, line 23, after "***county***", by inserting "***or governing body***"; and

On page 30, line 25, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 9, by deleting "***county, urban-county, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 16, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 18, by deleting "***bulk***"; and

On page 31, line 19, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, lines 20 and 21, by deleting "***and to any waste management district of which it is a member***"; and

On page 31, line 27, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, lines 2 and 3, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 8, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 9, by deleting "***requirements of this section***" and inserting "***requirement of universal collection***" in lieu thereof; and

On page 32, lines 12 and 13, by deleting "***county, urban-county government, charter county government or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 14, after "***waste***" by inserting "***in its area***"; and

On page 32, lines 17 and 18, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 18, after "***waste***" by inserting "***in its area***"; and

On page 32, line 22, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On pages 32, line 27, and page 33, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 2, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 8, by changing "***26***" to "***20***"; and

On page 33, line 9, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, lines 20 and 21, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On pages 33, line 27, and page 34, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 36, line 7, by deleting "***counties***" and inserting "***governing bodies***" in lieu thereof; and

On page 38, beginning with line 7 and continuing to page 41, through line 4, by deleting these lines in their entirety and renumbering subsequent sections accordingly; and

On page 41, lines 10 through 14, by deleting them in their entirety and renumbering subsequent sections accordingly; and

On page 41, after line 4, by inserting the following:

"Section 23. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 1 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of

each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units as prescribed by the state local finance officer, including but not limited to:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) Social services.
(e) Recreation and culture.
(f) Transportation facilities and services.
(g) Debt service.
(h) Administration and miscellaneous.
(i) Jail operations.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The county budget shall include a line item to account for money to be received according to Section 3 of this Act.

(7)[~~(6)~~]The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250."; and

Renumber subsequent sections accordingly; and

On page 41, line 15, by changing "18" to "10".

Floor Amendment No. 8 Title to **HB 1**, by Representative Stumbo:

On page 1, by amending the title to read as follows:

"AN ACT relating to solid waste."

Floor Amendment No. 1 to **HB 59**, by Representative Tapp:

On page 1, lines 1 to 25, to delete the same; and to insert in lieu thereof:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context otherwise requires:

(1) "Full or partial nudity" means the showing of all or any part of the human genitals or pubic area, or any part of the nipple of the female breast with less than a fully opaque covering;

(2) "Photographs" or "films" means the making of any photograph, motion picture film, videotape, or any other recording or transmission of the image of a person;

(3) "Place where a reasonable person has an expectation of privacy" means any place where a reasonable person believes that his or her full or partial nudity will not be viewed, photographed, or filmed by another without the reasonable person's consent; and

(4) "Public place" means a place to which the public or a substantial group of persons has access and includes but is not limited to highways, transportation facilities, schools, places of amusements, parks, places of business, playgrounds, and hallways, lobbies, and other portions of apartment houses and hotels not constituting rooms or apartments designed for actual residence. An act is deemed to occur in a public place if it produces its offensive or proscribed consequences in a public place. As used in Section 2 of this Act, "public place" does not include enclosed single sex public restrooms, enclosed single sex functional showers, locker or dressing room facilities, enclosed motel rooms and hotel rooms designed and intended for sleeping accommodations, doctors' offices, and portions of hospitals and similar places in which nudity or exposure is necessarily or customarily expected outside of the home and the sphere of privacy constitutionally protected therein; nor does it include a modeling class, in which a person appears in a state of nudity,

that is operated by a proprietary school licensed by the Commonwealth of Kentucky, a college, junior college, or university supported entirely or partly by taxation, or a private college or university where the private college or university maintains and operates educational programs in which credits are transferable to a college, junior college, or university supported entirely or partly by taxation or an accredited private college, or a private facility that has been formed as a family-oriented clothing optional facility that is properly licensed by the state.

SECTION 2. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) A person is guilty of public indecency if he or she knowingly or intentionally, in a public place:

(a) Engages in sexual intercourse;

(b) Engages in deviate sexual conduct;

(c) Engages in masturbation;

(d) Engages in bestiality;

(e) Engages in oral copulation, flagellation, excretory functions, or other ultimate sex acts; or

(f) Appears in a state of full or partial nudity.

(2) Public indecency is a Class A misdemeanor.

(3) The provisions of this section shall not apply to the lawful activities of persons at a nudist society licensed under KRS Chapter 232.

(4) The breast feeding of a child by a woman shall not be a violation of this section.

(5) The provisions of this section shall not apply to any theatrical production that contains full or partial nudity, as defined in Section 1 of this Act, that is performed in a theater by a professional or amateur theatrical or musical company and that has serious artistic merit.

(6) This section shall not affect in any manner the ability of local jurisdictions or the Commonwealth of Kentucky to regulate any activity where alcoholic beverages, including malt beverages, are sold for consumption, or to otherwise regulate or license a public place and the activity therein.

(7) A person convicted of a violation of this section shall not be considered as a sexual offender and shall not be subject to sex offender assessment, treatment, or registration.

SECTION 3. A NEW SECTION OF KRS CHAPTER 510 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (2) of this section, a person commits the crime of invasion of privacy if he or she knowingly views, photographs, or films another person:

(a) In a state of full or partial nudity; and

(b) In a place where a reasonable person has an expectation of privacy.

(2) The provisions of subsection (1) of this section shall not apply to:

(a) Viewing, photographing, or filming by a law enforcement officer during a lawful criminal investigation; or

(b) Viewing, photographing, or filming of a person in the custody of the Department of Corrections, the Department of Juvenile Justice, a private prison, a local jail, or a local correctional facility when the person viewing, photographing, or filming is authorized to do so for:

1. Security purposes; or

2. Investigation of alleged misconduct.

(3) Invasion of privacy is a Class B misdemeanor for the first offense, a Class A misdemeanor for the second offense, and a Class D felony for each subsequent offense.

(4) A person convicted of a violation of this section shall not be considered as a sexual offender and shall not be subject to sex offender assessment, treatment, or registration."; and

On page 2, lines 1 to 27, to delete the same; and

On page 3, lines 1 to 3, to delete the same.

Floor Amendment No. 5 to the Committee Substitute to **HB 691**, by Representative Branham:

On page 1, line 16, after the word "*shall*" insert "*, at the direction of a peace officer or safety officer,*"; and

On page 1, line 17, after the period "*.*" insert "*The operator of any vehicle involved in an accident shall not move the vehicle out of the travel lanes of the roadway until expressly directed to do so by a peace officer or safety officer.*".

Floor Amendment No. 2 to the Committee Substitute to **HB 663**, by Representative Haydon:

On page 6, after line 1 by adding the following:

"Section 4. KRS 100.111 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative official" means any department, employee, or advisory, elected or appointed body which is authorized to administer any provision of the zoning regulation, subdivision regulations, and if delegated, any provision of any housing or building regulation or any other land use control regulation;

(2) "Agricultural use" means the use of a tract of at least five (5) contiguous acres for the production of agricultural or horticultural crops, including but not limited to livestock, livestock products, poultry, poultry products, grain, hay, pastures, soybeans, tobacco, timber, orchard fruits, vegetables, flowers or ornamental plants, including provision for dwellings for persons and their families who are engaged in the above agricultural use on the tract, but not including residential building development for sale or lease to the public***, and shall also include, regardless of the size of the tract of land used, small wineries licensed under Section 1 of this Act, and farm wineries licensed under the provisions of Section 2 of this Act***;

(3) "Board" means the board of adjustment unless the context indicates otherwise;

(4) "Citizen member" means any member of the planning commission or board of adjustment who is not an elected or appointed official or employee of the city or county;

(5) "Commission" means planning commission;

(6) "Conditional use" means a use which is essential to or would promote the public health, safety, or welfare in one (1) or more zones, but which would impair the integrity and character of the zone in which it is located, or in adjoining zones, unless restrictions on location, size, extent, and character of performance are imposed in addition to those imposed in the zoning regulation;

(7) "Conditional use permit" means legal authorization to undertake a conditional use, issued by the administrative official pursuant to authorization by the board of adjustment, consisting of two (2) parts:

  (a) A statement of the factual determination by the board of adjustment which justifies the issuance of the permit; and

  (b) A statement of the specific conditions which must be met in order for the use to be permitted;

(8) "Development plan" means written and graphic material for the provision of a development, including any or all of the following: location and bulk of buildings and other structures, intensity of use, density of development, streets, ways, parking facilities, signs, drainage of surface water, access points, a plan for screening or buffering, utilities, existing manmade and natural conditions, and all other conditions agreed to by the applicant;

(9) "Fiscal court" means the chief body of the county with legislative power, whether it is the fiscal court, county commissioners, or otherwise;

(10) "Housing or building regulation" means the Kentucky Building Code, the Kentucky Plumbing Code and any other building or structural code promulgated by the Commonwealth or by its political subdivisions;

(11) "Legislative body" means the chief body of the city with legislative power, whether it is the board of aldermen, the general council, the common council, the city council, the board of commissioners, or otherwise; at times it also implies the county's fiscal court;

(12) "Mayor" means the chief elected official of the city whether the official designation of his office is mayor or otherwise;

(13) "Nonconforming use or structure" means an activity or a building, sign, structure or a portion thereof which lawfully existed before the adoption or amendment of the zoning regulation, but which does not conform to all of the regulations contained in the zoning regulation which pertain to the zone in which it is located;

(14) "Planning operations" means the formulating of plans for the physical development and social and economic well-being of a planning unit, and the formulating of proposals for means of implementing the plans;

(15) "Planning unit" means any city or county, or any combination of cities, counties, or parts of counties engaged in planning operations;

(16) "Plat" means the map of a subdivision;

(17) "Political subdivision" means any city or county;

(18) "Several" means two (2) or more;

(19) "Public facility" means any use of land whether publicly or privately owned for transportation, utilities, or communications, or for the benefit of the general public, including, but not limited to, libraries, streets, schools, fire or police stations, county buildings, municipal buildings, recreational centers including parks, and cemeteries;

(20) "Street" means any vehicular way;

(21) "Structure" means anything constructed or made, the use of which requires permanent location in or on the ground or

attachment to something having a permanent location in or on the ground, including buildings and signs;

(22) "Subdivision" means the division of a parcel of land into three (3) or more lots or parcels except in a county containing a city of the first, second or third class or in an urban-county government where a subdivision means the division of a parcel of land into two (2) or more lots or parcels; for the purpose, whether immediate or future, of sale, lease, or building development, or if a new street is involved, any division of a parcel of land; provided that a division of land for agricultural use and not involving a new street shall not be deemed a subdivision. The term includes resubdivision and when appropriate to the context, shall relate to the process of subdivision or to the land subdivided; any division or redivision of land into parcels of less than one (1) acre occurring within twelve (12) months following a division of the same land shall be deemed a subdivision within the meaning of this section;

(23) "Unit" means planning unit; and

(24) "Variance" means a departure from dimensional terms of the zoning regulation pertaining to the height, width, or location of structures, and the size of yards and open spaces where such departure meets the requirements of KRS 100.241 to 100.247.".

Floor Amendment No. 1 to **HB 875**, by Representative Gooch:

On page 4, line 2, by deleting "***permitted under***" and inserting in lieu thereof "***authorized by***".

Floor Amendment No. 1 to **HB 757**, by Representative Ford:

On page 12, after line 2, by adding"

"SECTION 9. A NEW SECTION OF SUBTITLE 17A OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

(1) Any insurer delivering or issuing a health benefit plan subject to this subtitle or a health insurance policy or contract covering specified disease shall give the policyholder or contract holder at least forty-five (45) days advance written notice of cancellation. The notice shall be mailed by registered mail to the policyholder's or contract holder's last address as shown by the records of the insurer. However, if cancellation is for nonpayment of premium, at least fourteen (14) days written notice accompanied by the reason therefor shall be given. Written notice of cancellation for nonpayment of premium shall not be required for health insurance policies in the individual market under which premiums are payable monthly or more frequently and regularly collected by a licensed agent.

(2) On and after January 1, 2001, every insurer offering group health insurance coverage in the Commonwealth shall include in its contract with group policyholders or contract holders, regardless of the situs of the contract, a provision requiring the group policyholder or contract holder to mail promptly to each person covered under the group policy or contract a legible, true copy of any notice of cancellation of the group coverage which may be received from the insurer and to provide promptly to the insurer proof of that mailing and the date thereof. The notice of cancellation mailed by the group policyholder or contract holder to each person covered under the group policy or contract shall include information regarding the conversion rights of covered persons upon termination of the group policy or contract. This information shall be in clear and easily understandable language.

(3) In the event of cancellation, the insurer shall return promptly the unearned portion of any premium paid. Cancellation shall be without prejudice to any claim originating prior to the effective date of cancellation.

(4) If the insurer fails to provide the forty-five (45) days notice required by this section, the coverage shall remain in effect at the existing premium until forty-five (45) days after the notice is given or until the effective date of replacement coverage obtained by the insured, whichever occurs first.".

Floor Amendment No. 1 to **HB 740**, by Representative Geveden:

On page 6, after line 9, by inserting the following:

Section 5. KRS 67.045 is amended to read as follows:

(1) For the purposes of this section the word "district" shall mean:

(a) Justice's of the peace district in counties having a fiscal court composed of the county judge/executive and the justices of the peace;

(b) County commissioner's district in counties having a fiscal court composed of the county judge/executive and three (3) county commissioners; or

(c) Justice's of the peace district in counties having a fiscal court composed of the county judge/executive and three (3) county commissioners established according to KRS 67.060.

(2) In counties where the members of the county fiscal court are nominated or elected by districts, the boundaries of those

districts shall be drawn so that the districts are compact, contiguous, and the population of each district shall be as nearly equal as is reasonably possible.

(3) In counties where the fiscal court consists of the county judge/executive and three (3) county commissioners established according to KRS 67.060, the justice of the peace districts shall be coextensive with the three (3) county commissioner districts.

(4) The fiscal court shall initiate reapportionment proceedings in ***May***[~~February~~] of the ***first***[~~second~~] year following the decennial census of the United States. The fiscal court may, at other times, review the district boundaries and shall initiate reapportionment proceedings if the district boundaries are in violation of subsection (2) of this section.

(5) To initiate a reapportionment proceeding, the fiscal court shall publish notice of the planned reapportionment in accordance with KRS Chapter 424 and appoint three (3) competent citizens of the county over twenty-one (21) years of age, and residing in different districts, and the county clerk as a nonvoting member as commissioners to reapportion the county into not less than three (3) nor more than eight (8) justices' districts in counties having a fiscal court composed of the county judge/executive and the justices of the peace or three (3) commissioner's districts in counties having a fiscal court composed of the county judge/executive and county commissioners. The commissioners, before they proceed to act, shall be sworn to faithfully perform their duties. They shall receive out of the county treasury a reasonable compensation for their services, fixed by the fiscal court.

(6) The commissioners shall, within sixty (60) days after their appointment, lay off the boundary lines of the districts. They shall file in the office of the county clerk and with each member of the fiscal court a written report, showing the boundary of each district and the estimated population in each. Within sixty (60) days of the receipt of the report, the fiscal court shall consider the report of the commissioners and, in accordance with the provisions of KRS 67.075 to 67.077, adopt or amend the report in establishing the districts. In no event shall districts be reapportioned during the period from thirty (30) days prior to the last date for filing for candidacy for county office as provided in KRS 118.165 and the regular election for candidates for county office.

(7) Precinct lines shall be redrawn when necessary in accordance with the provisions of KRS 117.055. No precinct shall be in more than one (1) district.

(8) Within twenty (20) days of the establishment of the districts by the fiscal court, any registered voter of the county may bring an action in the Circuit Court to enforce the provisions of this section. The Circuit Court shall hear the action and, on a finding that the fiscal court has violated the provisions of this section, remand the matter to the fiscal court. The Circuit Court, in its discretion, may allow the prevailing party, other than the fiscal court, a reasonable attorney's fee, to be paid from the county treasury, as part of the costs.

[~~(9) The fiscal court of any county which has not reapportioned its districts since the 1980 decennial census of the United States shall initiate reapportionment proceedings within sixty (60) days of July 15, 1982.~~]

Floor Amendment No. 2 to **HB 757**, by Representative Damron:

On page 2, line 12, by deleting "***A managed care plan***" and inserting in lieu thereof "***An insurer***"; and

On page 2, line 12, after "***arrangement***" by inserting "***or subcontract agreement***"; and

On page 2, lines 12 to 13, by deleting "***with a provider***"; and

On page 2, line 14, by deleting "***managed care plan***" and inserting in lieu thereof "***insurer***"; and

On page 2, lines 19 to 20, by deleting "***managed care plan***" and inserting in lieu thereof "***insurer***"; and

On page 2, line 20, before "***provider***" by inserting "***entity or***"or; and

On page 2, line 22, by deleting "***managed care plan***" and by inserting in lieu thereof "***insurer***"; and

On page 2, line 23, before "***provider***" by inserting "***entity or***"; and

On page 2, line 23, by deleting "***managed care plan***" and by inserting in lieu thereof "***insurer***"; and

On page 2, line 24, before "***provider***" by inserting "***entity or***"; and

On page 2, line 26, by deleting "***managed care plan's***" and by inserting in lieu thereof "***insurer's***"; and

On page 2, after line 27, by inserting:

"***(3) Nothing in this section shall be construed as requiring an insurer to submit the actual financial information agreed to between the insurer and the entity or provider. The commissioner shall have access to a specific risk sharing arrangement with an entity or provider upon request to the insurer. Financial information obtained by the department shall be considered to be a trade secret and shall not be subject to KRS 61.872 to 61.884.***"; and

On page 8, after line 20, by inserting:

"***(13) Risk sharing arrangement" means any agreement that allows an insurer to share the financial risk of providing health care services to enrollees or insureds with another entity or provider where there is a chance of financial loss to the***

entity or provider as a result of the delivery of a service. A risk sharing arrangement shall not include a reinsurance contract with an accredited or admitted reinsurer."; and

On page 8, line 21, by deleting "*(13)*" and inserting in lieu thereof "*(14)*"; and

On page 8, line 23, by deleting "*(14)*" and inserting in lieu thereof "*(15)*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 7: Representative Anderson

HB 408: Representative J. Turner

HB 744: Representatives Gray, Yonts

HB 821: Representative Crimm

HB 825: Representative Cherry

HB 826: Representative Yonts

HB 878: Representative Stumbo

HB 918: Representatives L. Clark, Marzian

HB 1010: Representative Jenkins

HB 1011: Representative Wayne

HCR 65: Representatives Gray, Haydon, Nesler

The following member has filed a request to have his name withdrawn as a co-sponsor of a Bill under rules previously suspended:

HB 956: Representative Walton

Announcements

The following meetings were announced:

Appropriations and Revenue, March 2, 2000, upon adjournment

Education, March 3, 2000, 8:45 a.m., Room 141

Judiciary, March 3, 2000, 8:00 a.m., Room 149

Labor and Industry, March 6, 2000, 1 hour upon adjournment, Room 149

Tourism, Development, and Energy, March 2, 2000, upon adjournment

The following meetings were canceled:

Minority Caucus, March 3, 2000

Budget Review Subcommittee on Transportation, March 3, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 10:00 a.m., March 3, 2000.

The motion that the House adjourn until 10:00 a.m., March 3, 2000, was adopted by voice vote.

MARCH 3, 2000

FORTIETH LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Wayne Holcomb, Wellington Christian Church, Lexington.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 2, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Introduction of Resolutions

HR 149, by Representative Cherry: A RESOLUTION in honor of Representative Charles R. Geveden upon the occasion of his 60th birthday.

Senate Message

Announcing passage of **SB 147, SB 227, SB 247, SB 248, SJR 69, HB 175, HB 203, HB 277, HB 417, HB 436, HB 456, HB 466, HB 477, HJR 9, HJR 15, HCR 35, HCR 37, HJR 39, HJR 70, HJR 72,** and **HJR 76**. (Time: 10:10 a.m.)

Message in regard to **HB 10**: The Senate has passed **HB 10** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 427**: The Senate has passed **HB 427** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 449**: The Senate has passed **HB 449** with Senate Floor Amendments and Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Appropriations and Revenue: **SB 192**

Economic Development: **SB 225**

Education: **SB 203, SB 221, SB 265**

Health and Welfare: **SB 111, SB 272**

Local Government: **SB 220, SB 255**

Transportation: **SB 254**

Report of Committees

The Committee on Tourism, Development, and Energy reported **HB 811** and **SB 110** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 811, AN ACT relating to tourism development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 154.29-050 is amended to read as follows:

(1) The authority, upon adoption of its final approval, may enter into with any approved company an agreement with respect to its tourism attraction project. The terms and provisions of each agreement shall include, but not be limited to:

(a) The amount of approved costs, which shall be determined by negotiations between the authority and the approved company;

(b) A date certain by which the approved company shall have completed the tourism attraction project. ***Upon request from any approved company that has received final approval prior to or after July 15, 2000, the authority shall grant an extension or change, which in no event shall exceed three (3) years from the date of final approval, to the completion date as specified in the agreement of an approved company.*** Within three (3) months of the completion date, the approved company shall document the actual cost of the project through a certification of the costs to be provided by an independent certified public accountant acceptable to the authority; and

(c) The following provisions:

1. The term shall be ten (10) years from the later of:
    a. The date of the final approval of the project; or
    b. The completion date specified in the agreement, if this completion date is within ***three (3)***[~~two (2)~~] years of the date of the final approval of the project;
2. Within forty-five (45) days after the end of each half of each fiscal year of the approved company, the approved company shall supply the authority with such reports and certifications as the authority may request demonstrating to the satisfaction of the authority that the approved company is in compliance with the provisions of KRS 139.536 and KRS 154.29-010 to 154.29-060. Based upon a review of these materials and other documents that may be made available, the authority shall then certify to the Revenue Cabinet that the approved company is in compliance with this section; and
3. The approved company shall not receive a sales tax refund as prescribed by KRS 139.536 with respect to any fiscal year if:
    a. In any year following the fourth year of the agreement, the tourism attraction project fails to attract at least twenty-five percent (25%) of its visitors from among persons who are not residents of the Commonwealth; or
    b. In any year following the first year of the agreement, the tourism attraction project is not operating and open to the public for at least one hundred (100) days.

(2) The agreement shall not be transferable or assignable by the approved company without the written consent of the authority.

(3) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010, excluding its lessees, may be granted a sales tax refund under KRS 139.536 from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 154.29-010.

Section 2. KRS 139.536 is amended to read as follows:

(1) In consideration of the execution of the agreement as defined in KRS 154.29-010 and notwithstanding any provision of KRS 139.770 to the contrary, the approved company as defined in KRS 154.29-010, excluding its lessees, may be granted a sales tax refund from the Kentucky sales tax imposed by KRS 139.200 on the sales generated by or arising at the tourism attraction project as defined in KRS 154.29-010. The approved company shall have no obligation to refund or otherwise return any amount of this sales tax refund to the persons from whom the sales tax was collected. The term of the agreement granting the sales tax refund shall be ten (10) years, and this time period shall commence on the later of:

(a) The final approval for purposes of the inducements; or

(b) The completion date specified in the agreement.

(2) ***Any sales tax collected by an company as defined in KRS 154.29-010 on sales transacted after final approval but prior to the commencement of the term of the agreement, including any approved company that has received final approval prior to July 15, 2000, shall be refundable as if collected after the commencement of the term and applied to the approved company's first fiscal year's refund after activation of the term and without changing the term.***

(3) The total sales tax refund allowed to the approved company over the term of the agreement in subsection (1) of this section shall be equal to the lesser of the total amount of the sales tax liability of the approved company and its lessees or twenty-five percent (25%) of the approved costs. The sales tax refund shall accrue over the term of the agreement in an annual amount equal to two and one-half percent (2.5%) of the approved cost. Notwithstanding the foregoing two and one-half percent (2.5%) limitation, any unused inducements as set forth in KRS 154.29-010(9) from a previous year may be carried forward to any succeeding year during the term of the agreement until the entire twenty-five percent (25%) of the approved costs have been received through sales tax refunds. By October 1 of each year the Revenue Cabinet shall certify to the authority and the secretary of the Tourism Development Cabinet for the preceding fiscal year for all approved companies for which sales tax returns were filed with respect to a tourism attraction project, the sales tax liability of the approved companies receiving inducements under this section and KRS 154.29-010 to 154.29-060, and their lessees, and the amount of the sales tax refunds issued pursuant to subsection (1) of this section.

(4)[~~(3)~~]Interest shall not be allowed or paid on any refund made under the provisions of this section.

(5)[~~(4)~~]The Revenue Cabinet may promulgate administrative regulations and require the filing of forms designed by the Revenue Cabinet to reflect the intent of this section and KRS 154.29-010 to 154.29-060.

SB 110, AN ACT relating to public utilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 278.010 is amended to read as follows:

As used in KRS 278.010 to 278.450, and in KRS 278.990, unless the context otherwise requires:

(1) "Corporation" includes private, quasipublic, and public corporations, and all boards, agencies and instrumentalities thereof, associations, joint-stock companies, and business trusts;

(2) "Person" includes natural persons, partnerships, corporations, and two (2) or more persons having a joint or common interest;

(3) "Utility" means any person except a city, who owns, controls, or operates or manages any facility used or to be used for or in connection with:

  (a) The generation, production, transmission, or distribution of electricity to or for the public, for compensation, for lights, heat, power, or other uses;

  (b) The production, manufacture, storage, distribution, sale, or furnishing of natural or manufactured gas, or a mixture of same, to or for the public, for compensation, for light, heat, power, or other uses;

  (c) The transporting or conveying of gas, crude oil, or other fluid substance by pipeline to or for the public, for compensation;

  (d) The diverting, developing, pumping, impounding, distributing, or furnishing of water to or for the public, for compensation;

  (e) The transmission or conveyance over wire, in air, or otherwise, of any message by telephone or telegraph for the public, for compensation; or

  (f) The ***collection, transmission, or*** treatment of sewage for the public, for compensation, if the facility is a subdivision ***collection, transmission, or*** treatment facility plant ***that is affixed to real property and is***[~~,~~] located in a county containing a city of the first class or ***is*** a sewage ***collection, transmission, or*** treatment facility ***that is affixed to real property, that is*** located in any other county, and ***that*** is not subject to regulation by a metropolitan sewer district ***or any sanitation district created pursuant to KRS Chapter 220***;

(4) "Retail electric supplier" means any person, firm, corporation, association, or cooperative corporation, excluding municipal corporations, engaged in the furnishing of retail electric service;

(5) "Certified territory" shall mean the areas as certified by and pursuant to KRS 278.017;

(6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is being or has been substantially used to supply retail electric service and includes all lines from the distribution substation to the electric consuming facility but does not include any transmission facilities used primarily to transfer energy in bulk;

(7) "Retail electric service" means electric service furnished to a consumer for ultimate consumption, but does not include wholesale electric energy furnished by an electric supplier to another electric supplier for resale;

(8) "Electric-consuming facilities" means everything that utilizes electric energy from a central station source;

(9) "Generation and transmission cooperative", or "G&T", means a utility formed under KRS Chapter 279 that provides electric generation and transmission services;

(10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that provides retail electric service;

(11) "Facility" includes all property, means, and instrumentalities owned, operated, leased, licensed, used, furnished, or supplied for, by, or in connection with the business of any utility;

(12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation for service rendered or to be rendered by any utility, and any rule, regulation, practice, act, requirement, or privilege in any way relating to such fare, toll, charge, rental, or other compensation, and any schedule or tariff or part of a schedule or tariff thereof;

(13) "Service" includes any practice or requirement in any way relating to the service of any utility, including the voltage of electricity, the heat units and pressure of gas, the purity, pressure, and quantity of water, and in general the quality, quantity, and pressure of any commodity or product used or to be used for or in connection with the business of any utility;

(14) "Adequate service" means having sufficient capacity to meet the maximum estimated requirements of the customer to be served during the year following the commencement of permanent service and to meet the maximum estimated requirements of other actual customers to be supplied from the same lines or facilities during such year and to assure such

customers of reasonable continuity of service;

(15) "Commission" means the Public Service Commission of Kentucky;

(16) "Commissioner" means one (1) of the members of the commission; and

(17) "Demand-side management" means any conservation, load management, or other utility activity intended to influence the level or pattern of customer usage or demand.

The Committee on Appropriations and Revenue reported **HB 583**, with Committee Amendment attached thereto, **HB 719**, and **HB 749**, with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 583, AN ACT relating to proceeds from the Tobacco Master Settlement Agreement, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 248.654 is amended to read as follows:

There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the ***master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states***~~[tobacco settlement agreement]~~ or related federal legislation. Any funds designated to the Commonwealth from the settlement agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco farmers and tobacco-impacted communities and health-related areas. ***Moneys in the fund shall be distributed as follows:***

(1) Fifty percent (50%) to the rural development fund created in Section 2 of this Act;

(2) Twenty-five percent (25%) to the early childhood development fund created in Section 3 of this Act; and

(3) Twenty-five percent (25%) to the Kentucky health care improvement fund created in Section 4 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Rural Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote agricultural development for residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the rural development board. Before and after July 1, 2000, fifty percent (50%) of the proceeds in the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Early Childhood Development Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve and promote early childhood development for children of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasurer upon the warrant of the chair of the early childhood development board. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 194A IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Kentucky Health Care Improvement Fund." This fund shall exist for the purpose of receipt and expenditure of moneys to improve health care and access to health insurance residents of the Commonwealth. The fund may receive state appropriations, gifts, grants, and federal funds and shall be disbursed by the State Treasure upon the warrant of the secretary of the Cabinet for Health Services. Beginning July 1, 2000, twenty-five percent (25%) of the proceeds from the tobacco settlement agreement fund shall be deposited in this fund as provided under Section 1 of this Act.

Section 5. Fifty percent of the proceeds of the tobacco settlement agreement fund on the effective date of this Act, and of any additions thereto prior to July 1, 2000, shall be deposited in the rural development fund established by Section 2 of this Act for the purpose set forth in that section for that fund.

Section 6. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of this Act take effect prior to the beginning of the new fiscal year, an emergency is declared to exist and this Act takes effect its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 to **HB 583** is as follows:

On page 1, line 6, after the period "." by inserting "***All investment income earned from moneys deposited in the fund prior to the effective date of this Act and after the effective date of this Act shall accrue to the fund.***"; and

On page 1, line 8, after the word "legislation" by inserting "***and all investment income accruing to the fund***"; and

On page 1, line 11, after the word "***fund***" by deleting "***shall be distributed as follows:***" and inserting "***, including all investment income accruing to the fund, shall be distributed within twenty (20) days of the effective date of this Act and within twenty (20) days of receipt of any moneys deposited to the fund after the effective date of this Act as follows:***"; and

On page 2, line 3, after the period "." by inserting "***All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. Moneys in the fund shall be disbursed within twenty (20) days of receipt for the purposes as provided by law.***"; and

On page 2, line 13, after the period "." by inserting "***All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. Moneys in the fund shall be disbursed within twenty (20) days of receipt for the purposes as provided by law.***"; and

On page 2, line 20, by deleting "***Treasure***" and inserting in lieu thereof "***Treasury***"; and

On page 2, line 23, after the period "." by inserting "***All investment income earned from moneys deposited in the fund shall accrue to the fund. The moneys in the fund shall not lapse at the close of any fiscal year but shall be carried forward in the next fiscal year for the purpose of the fund. Moneys in the fund shall be disbursed within twenty (20) days of receipt for the purposes as provided by law.***".

HB 719, AN ACT relating to collection of taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 134.500 is amended to read as follows:

(1) Uncollectible tax claims shall bear interest at twelve percent (12%) per annum from the date the certificate of delinquency is issued. All tax bills on omitted property that were not turned over to the sheriff in time to be collected or to make the sale provided for in KRS 134.430 and 134.440 shall also be submitted to the fiscal court but shall be carried over as a charge against the sheriff at the time he makes his next regular settlement.

(2) The cabinet shall be responsible for the collection of certificates of delinquency and delinquent personal property tax bills; however, the cabinet shall first offer the collection duties to the county attorney, unless the cabinet determines that the county attorney has previously failed to perform collection duties in a reasonable and acceptable manner. Any county attorney desiring to perform the duties associated with the collection of delinquent tax claims shall enter into a contract with the cabinet on an annual basis. The terms of the contract shall specify the duties to be undertaken by the county attorney. These duties shall include but are not limited to the following actions:

- (a) Within fifty (50) days after the issuance of a certificate of delinquency to the state, county, and taxing district, the county attorney or the Revenue Cabinet shall cause a notice of the purchase to be mailed by regular mail to the property owner at the address on the records of the property valuation administrator. The notice shall advise the owner that the certificate is a lien of record against all property of the owner, and bears interest at the rate of twelve percent (12%) per annum, and if not paid will be subject to collection by the county attorney as provided by law.
- (b) The county attorney shall file in the office of the county clerk a list of the names and addresses to which the notice was mailed along with a certificate that the notice was mailed in accordance with the requirements of this section.
- (c) All notices returned as undeliverable shall be submitted to the property valuation administrator. The property valuation administrator shall attempt to correct inadequate or erroneous addresses and, if property has been transferred, shall determine the new owner and the current mailing address. The property valuation administrator shall return the notices with the corrected information to the county attorney prior to the expiration of the one (1) year tolling period provided in KRS 134.470.
- (d) Within ninety (90) days after the expiration of the one (1) year tolling period provided in KRS 134.470, the county attorney shall cause a notice of his intention to enforce the lien to be mailed to all owners whose tax bills remain delinquent. No second notice shall be required for addresses previously determined to be undeliverable and for which the property valuation administrator has not provided corrected information.
- (e) Failure to mail the notices shall not affect the validity of the claim of the state, county, and taxing district. The postal cost of mailing the notices shall be added to the certificate of delinquency and, upon collection, the county attorney shall be reimbursed for the postage. The county attorney shall deliver at the same time a list of the owners whose tax bills remain delinquent to the property valuation administrator. The property valuation administrator shall review this list in accordance with the provisions of KRS 132.220 to establish that the properties on the list can be identified and physically located.

(3) The county attorney who enters into a contract with the cabinet shall have a period of two (2) years after the expiration of the one (1) year tolling period provided in KRS 134.470 to collect delinquent tax bills or to initiate court action for their collection. At the expiration of the two (2) years the cabinet may assume responsibility for all uncollected bills except those with pending court action.

(4) The county attorney who enters into a contract with the cabinet and performs his duties in respect to the certificate of delinquency and delinquent personal property tax bills shall be entitled to twenty percent (20%) of the amount due each taxing unit, whether the tax claim is voluntarily paid or is paid through sale or under court order, and the fee shall be paid to him by the county clerk when making distribution, as provided in KRS 134.480. This fee shall be added to the amount of the tax claims and paid by the persons paying the tax claims. They shall not be paid by the taxing districts or deducted from the taxes due the taxing districts. ***This fee shall be waived if the certificate of delinquency is paid within five (5) days of its recordation in the clerk's office.*** If more than one (1) county attorney renders necessary services in an effort to collect a tax claim, the attorney serving the last notice or rendering the last substantial service preceding collection shall be entitled to the fee. When the county attorney's office, in an effort to collect a certificate of delinquency, or delinquent personal property tax bills files a court action which is litigated by the taxpayer, an additional county's attorney fee equal to thirteen percent (13%) of the total tax plus ten percent (10%) penalty, may be added to the certificate or the bill and shall become part of the tax claim.

(5) If a county attorney chooses not to contract for these collection duties or if a county attorney fails to perform the duties required by the contract, the cabinet shall assume responsibility for the collection process. In the performance of those duties, the cabinet shall have all the powers, rights, duties, and authority with respect to the collection, refund, and administration of the amount due on the certificate of delinquency conferred generally upon the cabinet by Kentucky Revised Statutes including, but not limited to, KRS Chapters 131, 134, and 135. The twenty percent (20%) fee that would have otherwise been paid to the county attorney shall be paid to the cabinet for deposit in the delinquent tax fund provided for under KRS 134.400.

(6) Any action on behalf of the state, county, and taxing districts authorized by this section or by KRS 134.470, 134.490, or 134.540 shall be filed on relation of the secretary, and the petition may be sent to the cabinet, which may require revision in instances where it deems revision or amendment necessary. The cabinet shall advise the county attorney in all actions, and may send him special assistance when the secretary deems assistance necessary. A copy of the judgment shall also be sent to the cabinet. If the cabinet sends assistance to a county attorney who contracts to prosecute the suits or proceedings, the county attorney shall be entitled to his full fee. On the same day that suit is filed, the county clerk shall be given notice of its filing. Costs incident to the suit shall become a part of the tax claim.

(7) The cabinet may make its delinquent tax collection databases and other technical resources, including but not limited to income tax refund offsetting, available to the county attorney upon request from the county attorney. The county attorney seeking assistance shall enter into any agreements required by the cabinet to protect taxpayer confidentiality, to ensure database integrity, or to address other concerns of the cabinet.

HB 749, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.200 is amended to read as follows:

Except as otherwise provided, all property subject to taxation for state purposes shall also be subject to taxation in the county, city, school, or other taxing district in which it has a taxable situs.~~[, except]~~ The classes of property described in KRS 132.030 and 132.050, and the following classes of property, which shall be ***exempt from county, city, school, or other taxing districts' purposes***~~[subject to taxation for state purposes only]~~:

(1) Farm implements and farm machinery owned by a person actually engaged in farming and used in his farm operation;

(2) Livestock, ratite birds, and domestic fowl;

(3) Capital stock of savings and loan associations;

(4) Machinery actually engaged in manufacturing, products in the course of manufacture, and raw material actually on hand at the plant for the purpose of manufacture. The printing, publication, and distribution of a newspaper or operating a job printing plant shall be deemed to be manufacturing;

(5) Commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna; however, radio or television towers not essential to the production of the wave or signal broadcast shall not be included;

(6) Unmanufactured agricultural products. They shall be exempt from taxation for state purposes to the extent of the value, or amount, of any unpaid nonrecourse loans thereon granted by the United States government or any agency thereof, and except that cities and counties may each impose an ad valorem tax of not exceeding one and one-half cents ($0.015) on each one hundred dollars ($100) of the fair cash value of all unmanufactured tobacco and not exceeding four and one-half cents ($0.045) on each one hundred dollars ($100) of the fair cash value of all other unmanufactured agricultural products, subject to taxation within their limits that are not actually on hand at the plants of manufacturing concerns for the purpose of manufacture, nor in the hands of the producer or any agent of the producer to whom the products have been conveyed or assigned for the purpose of sale;

(7) Money in hand, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or

unsecured, and shares of stock. Nothing in this section shall forbid local taxation of franchises of corporations or of financial institutions, as provided for in KRS 136.575, or domestic life insurance companies;

(8) All privately-owned leasehold interest in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing;

(9) Property which has been certified as a pollution control facility as defined in KRS 224.01-300;

(10) Property which has been certified as an alcohol production facility as defined in KRS 247.910;

(11) On and after January 1, 1977, the assessed value of unmined coal shall be included in the formula contained in KRS 132.590(9) in determining the amount of county appropriation to the office of the property valuation administrator;

(12) Tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81;

(13) Motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043. However, nothing herein shall be construed to exempt historical motor vehicles from the usage tax imposed by KRS 138.460;

(14) Property which has been certified as a fluidized bed energy production facility as defined in KRS 211.390;

(15) All motor vehicles held for sale in the inventory of a licensed motor vehicle dealer, which are not currently titled and registered in Kentucky and are held on an assignment pursuant to the provisions of KRS 186A.230, and all motor vehicles with a salvage title held by an insurance company;

(16) Machinery or equipment owned by a business, industry, or organization in order to collect, source separate, compress, bale, shred, or otherwise handle waste materials if the machinery or equipment is primarily used for recycling purposes as defined in KRS 139.095;

(17) New farm machinery and other equipment held in the retailer's inventory for sale under a floor plan financing arrangement by a retailer, as defined under KRS 365.800;

(18) New boats and new marine equipment held for retail sale under a floor plan financing arrangement by a dealer registered under KRS 235.220;

(19) Aircraft not used in the business of transporting persons or property for compensation or hire if an exemption is approved by the county, city, school, or other taxing district in which the aircraft has its taxable situs;~~[and]~~

(20) Federally documented vessels not used in the business of transporting persons or property for compensation or hire or for other commercial purposes, if an exemption is approved by the county, city, school, or other taxing district in which the federally documented vessel has its taxable situs***; and***

(21) Personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination. Personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be shipped out-of-state within the next six (6) months.

Section 2. The following KRS section is repealed:

132.095 Personal property in warehouse in transit, ad valorem tax.

Section 3. The provisions of this Act shall apply for tax assessments made on or after January 1, 2000.

The Committee Substitute No. 1 to **HB 749** is as follows:

HB 749, AN ACT relating to property taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.190 is amended to read as follows:

(1) The property subject to taxation, unless exempted by the Constitution ***or personal property exempted by statute***, shall be as follows:

   (a) All real and personal property within this state, including intangible personal property of nonresidents and corporations not organized under the laws of this state that has acquired a business situs within this state, except that twenty-five (25) domestic fowl to each family shall be exempt from taxation for any purpose.

   (b) All intangible personal property of individuals residing in this state and of corporations organized under the laws of this state unless it has acquired a business situs without this state.

(2) The property enumerated in paragraph (b) of subsection (1) of this section shall be considered and estimated in fixing the valuation of corporate franchises.

(3) Property shall be assessed for taxation at its fair cash value, estimated at the price it would bring at a fair voluntary sale, except the following: real property qualifying for an assessment moratorium shall not have its fair cash value assessment changed while under the assessment moratorium unless the assessment moratorium expires or is otherwise canceled or revoked.

(4) The situs of intangible personal property for purposes of taxation shall be at the residence of the real or beneficial owner, and not at the residence of the fiduciary or agent having custody or possession. Any intangible property owned by a resident shall be taxable in this state, unless by the date of assessment he has changed his place of abode to a place without this state with the bona fide intention of continuing actually to abide permanently without this state. The fact that a person again abides within this state within six (6) months from so changing his actual place of abode shall be prima facie evidence that he did not intend permanently to have his actual place of abode without this state. A person so changing his actual place of abode and not intending permanently to continue it without this state and not having listed his property for taxation as a resident of this state shall, for the purpose of having his property assessed for taxation within this state, be deemed to have resided, on the day when his property should have been so assessed, at his last actual or habitual place of abode within this state. The fact that a person does not claim or exercise the right to vote at public elections within this state shall not of itself constitute him a nonresident of this state.

(5) An administrator, executor, trustee, guardian, conservator, curator, or agent residing in this state shall not be liable for taxes on intangible personal property held by him if the real or beneficial owner of the property resides outside of this state. This exemption shall not apply in the case of an executor or administrator in the exercise of his office as personal representative while the estate of a deceased person is in process of settlement and before the share of the nonresident legatee or beneficiary is set apart to him, or before the legatee or beneficiary is entitled to be paid his share.

(6) Nothing contained in this section shall affect the liability for franchise taxes payable by corporations organized under the laws of this state; nor the method of taxation of financial institutions provided in KRS 136.505; nor the method of taxation of savings and loan associations provided in KRS 136.300; and nothing contained in this section shall alter or repeal KRS 136.030.

SECTION 2. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

There shall be exempt from ad valorem tax for state purposes, personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination. Personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be shipped out-of-state within the next six (6) months.

SECTION 3. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The tax rate levied by cities, counties, charter counties, urban-counties, and school districts on personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be as follows:

- ***(a) Eighty percent (80%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2000; and***
- ***(b) Fifty percent (50%) of the tax rate levied on other tangible personal property for tax assessments made on January 1, 2001.***

(2) Personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination shall be exempt from the ad valorem tax levied by cities, counties, charter counties, urban-counties, and school districts for tax assessments made on or after January 1, 2002.

(3) Any fire district or other special taxing district may exempt from the ad valorem tax personal property placed in a warehouse or distribution center for the purpose of subsequent shipment to an out-of-state destination.

(4) For the purpose of this section, personal property shall be deemed to be held for shipment to an out-of-state destination if the owner can reasonably demonstrate that the personal property will be shipped out-of-state within the next six (6) months.

Section 4. The following KRS section is repealed:

132.095 Personal property in warehouse in transit, ad valorem tax.

Section 5. The provisions of Section 1 of this Act shall apply for tax assessments made on or after January 1, 2000.

The Committee on Appropriations and Revenue reported **HB 100**, with Committee Substitute attached thereto, **HB 488**, with Committee Substitute attached thereto, **HB 593**, **HB 599**, with Committee Substitutes attached thereto, **HB 611**, with Committee Substitute and Committee Amendment attached thereto, and **HB 706**, with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

The Committee Substitute No. 2 to **HB 599** is as follows:

HB 599, AN ACT relating to mining reclamation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) If a permittee or operator has been issued a notice or order directing abatement of a violation on the basis of an

imminent danger to health and safety of the public or significant imminent environmental harm, and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator for the limited purpose of abating that violation.

(2) If a violation other than one described in subsection (1) cannot be abated because the permittee or operator responsible for abatement of the violation has been denied access to the land necessary to allow abatement of the violation, the cabinet shall terminate the notice of noncompliance or cessation order issued for the violation, if the following conditions are met:

(a) Prior to terminating a notice of noncompliance or cessation order under this subsection, and within thirty (30) days of a request by a permittee or operator to terminate a violation based on a lack of access, the cabinet shall verify the denial of access and advise the surface owners of record and the legal occupants of the affected land of the consequences of refusing to allow access to the property for the purpose of enabling abatement of the violation; and

(b) The cabinet shall explain the consequences by certified mail, return receipt requested, and shall make a good faith effort to verbally notify all owners of interest and legal occupants that:

1. Refusal to allow access to the property will result in termination of the violation as uncorrectable;

2. If there is damage that occurs to public or private property due to the uncorrected violation condition on the property, that the property owner may also be responsible under law for any property damage to private or public property that may result from the unreclaimed condition; and

3. While the landowner may seek damages or injunctive relief in an action against the permittee or operator, the refusal to grant access in order to allow abatement of the violation shall result in the state terminating the requirement that the permittee or operator undertake work necessary for abatement of the violation, and that while penalties may be assessed, the performance bond shall not be forfeited on the basis of the violation.

(3) The cabinet shall not terminate any notice of noncompliance or cessation order under this section if the cabinet determines that the denial of access necessary to abate the violation has been procured through collusion between the permittee or operator and the landowner or legal occupant of the affected land who is refusing to allow the necessary access. "Collusion," for the purpose of this section, includes any agreement, understanding, or contract by which the landowner refuses access to the property in return for any consideration, whether involving money or otherwise. Any act of collusion shall subject the permittee or operator to penalties under this chapter for willful and knowing refusal to correct the violation.

(4) No noncompliance or cessation order may be terminated under this section where there is any common ownership or control between the permittee or operator and the landowner or legal occupant. No noncompliance or cessation order may be terminated under this section where there is any other legal relationship between the permittee or operator and the landowner or legal occupant, except where a court of competent jurisdiction has determined that the legal relationship does not provide for a right of access.

(5) Where a violation may impact public or private property other than land for which access has been denied, the cabinet shall direct abatement measures to be taken by the permittee or operator to prevent damage to those lands for which access has not been denied.

(6) Termination of a notice of noncompliance or cessation order under this section shall not affect the assessment of a civil penalty for the violation. Nothing in this section shall affect any person's right for damages or injunctive relief.

The Committee Substitute No. 1 to **HB 611** is as follows:

HB 611, AN ACT relating to the tobacco Master Settlement Agreement and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 11 of this Act, unless the context requires otherwise:

(1) "Master Settlement Agreement" means the settlement agreement dated November 23, 1998, entered into by the Commonwealth of Kentucky and major United States tobacco product manufacturers;

(2) "Master Settlement Agreement funding" means moneys paid to the state as a result of the Master Settlement Agreement. Payments are scheduled to come to the state on January 10 and April 15 of each calendar year through 2025 and possibly beyond;

(3) "Phase II Agreement" means the National Tobacco Grower Settlement Trust Agreement dated July 19, 1999, entered into by tobacco states and major tobacco companies to compensate tobacco growers and quota owners for losses resulting from the Master Settlement Agreement;

(4) "Phase II payment program" means the twelve (12) year program for providing payments, which result from the Phase II agreement, to tobacco growers and quota owners; and

(5) "Subcommittee" means the Master Settlement Agreement Oversight Subcommittee created by Section 11 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Fifty percent (50%) of the moneys received in the tobacco settlement agreement fund, created in KRS 248.654, from Master Settlement Agreement funding on or before June 30, 2000, along with accrued interest, shall be allocated on the effective date of this Act to the rural development fund created in House Bill 583 of the 2000 General Assembly. The moneys received in the rural development fund shall be further allocated as follows:

(a) Forty million dollars ($40,000,000) from the rural development fund shall be further allocated to the Phase II supplement fund created in Section 3 of this Act; and

(b) The moneys remaining in the rural development fund after the Phase II supplement fund contribution is taken shall be further allocated as follows:

1. Fifty percent (50%) to the state tobacco assistance fund created in Section 7 of this Act; and

2. Fifty percent (50%) to the local tobacco assistance fund created in Section 8 of this Act.

(2) Fifty percent (50%) of the moneys received in the tobacco settlement agreement fund from Master Settlement Agreement funding after June 30, 2000, along with accrued interest, shall be allocated in 2000 on the effective date of this Act and each subsequent year on July 1 to the rural development fund created in House Bill 583 of the 2000 General Assembly. The moneys received in the fund shall be further allocated as follows:

(a) For the life of the Phase II payment program, funds in the rural development fund shall be allocated first to the Phase II supplement fund when needed as outlined in Section 3 of this Act; and

(b) The moneys remaining in the rural development fund after the Phase II supplement fund contribution is taken shall be further allocated as follows:

1. Fifty percent (50%) to the state tobacco assistance fund created in Section 7 of this Act; and

2. Fifty percent (50%) to the local tobacco assistance fund created in Section 8 of this Act.

(3) Interest earned on any moneys in any fund or account created in Sections 1 to 11 of this Act shall accrue to that fund or account until transferred to another fund or account created or referenced in Sections 1 to 11 of this Act.

(4) None of the moneys left at the end of a fiscal year in any fund or account created or referenced in Sections 1 to 11 of this Act shall lapse, but shall stay with the fund or account as long as the fund or account exists, or until the moneys are transferred to another fund or account created or referenced in Sections 1 to 11 of this Act. In the case of any fund or account created in Sections 1 to 11 of this Act that is terminated with a remaining balance, the balance shall be returned to the tobacco settlement agreement fund, or to the fund or source from which it came.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the State Treasury the "Phase II Supplement Fund".

(2) Forty million dollars ($40,000,000) of the moneys credited to the rural development fund as set out in subsection (1)(a) of Section 2 of this Act shall be transferred to the Phase II supplement fund on the effective date of this Act. Additional funds shall be transferred to the Phase II supplement fund as needed from moneys credited to the tobacco settlement agreement fund after June 30, 2000.

(3) The Phase II supplement fund shall be used each year to supplement Phase II payments to tobacco growers and quota owners so that the total amount available for payment is maintained at one hundred fourteen million dollars ($114,000,000) each year. If the Phase II supplement funds, received from the rural development fund from Master Settlement Agreement funding before June 30, 2000, fall below the amount needed to reach the one hundred fourteen million dollar ($114,000,000) level in any year before the end of the twelve (12) year Phase II program, procedures outlined in subsection (4) of this section shall be followed.

(4) If the moneys received into the Phase II supplement fund before June 30, 2000, become insufficient to continue to meet the yearly one hundred fourteen million dollar ($114,000,000) funding level, moneys needed to supplement Phase II funding to maintain funding at the 1999 level of one hundred fourteen million dollars ($114,000,000) per year for each of the twelve (12) years of the Phase II funding program shall continue to be provided to the Phase II supplement fund from funds received in the tobacco settlement agreement fund after June 30, 2000. As Master Settlement Agreement funding becomes available after June 30, 2000, for calendar year 2001 and each year thereafter for the life of the Phase II payment program, the moneys needed for the Phase II supplement fund to assure availability of the one hundred fourteen million dollar ($114,000,000) funding level for that year shall be taken from the rural development fund before any other distributions are made. When a determination is made that funds are needed, funds shall be taken from the rural development fund following the next master settlement payment in January of each year when needed. On the last year of distribution of the Phase II supplement funds, any excess funds beyond those needed to reach the one hundred fourteen million dollar ($114,000,000) level shall be returned to the rural development fund.

(5) The Tobacco Settlement Trust Corporation created in House Bill 96 of the 2000 General Assembly shall provide for distribution of the Phase II Supplement funds. The corporation shall use the same formula and process for distribution of the Phase II supplement funds as it uses for distributions under the regular Phase II payment program, except that the corporation shall send the list of supplement payment recipients to the Revenue Cabinet rather than to the trustee of the National Tobacco Grower Settlement Trust. The Revenue Cabinet shall process the information and issue the checks at no charge to the Phase II supplement fund. The Phase II supplement funds shall be identified as supplement funds when distributed to tobacco growers and quota owners.

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Rural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(2) The board's highest priority for distributing funds shall be to tobacco farmers and tobacco-impacted communities most adversely affected by the loss of tobacco income.

(3) The board shall consist of nine (9) members as follows:

(a) Three (3) voting members, as follows:

1. The Governor's designee;

2. The Commissioner of the Kentucky Department of Agriculture or his designee; and

3. The secretary of the Cabinet for Economic Development or his designee;

(b) Six (6) voting members appointed by the Governor, who shall be geographically distributed throughout the state according to Congressional Districts and subject to confirmation by the House and Senate as provided in KRS 11.160(2). The members shall be as follows:

1. Five (5) active farmers, one (1) being a member of the Kentucky Farm Bureau; but not more than one (1) member being from any particular farm group; and

2. One (1) agricultural lender.

(4) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.

(5) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

(a) One (1) member shall be appointed for one (1) year;

(b) One (1) member shall be appointed for two (2) years;

(c) Two (2) members shall be appointed for three (3) years; and

(d) Two (2) members shall be appointed for four (4) years.

(6) The board shall meet by July 1, 2000, and shall select a chairman.

(7) The board shall meet quarterly, or at the call of the chair or a majority of the voting members.

(8) A quorum of the board shall consist of five (5) voting members. A majority of the voting members present may act upon matters before the board.

(9) The board shall be attached to the Governor's Office for administrative purposes.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The board's duties shall include, but not be limited to:

(a) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have on the agriculture community in the Commonwealth;

(b) Promulgating administrative regulations relating to carrying out the purposes of Sections 4 to 6 of this Act;

(c) Hiring a director to carry out the will of the board;

(d) Creating committees where needed and ensuring that the necessary mechanisms are in place for any committees created by the board to function effectively;

(e) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;

(f) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;

(g) Administering the state tobacco assistance fund created in Section 7 of this Act, and the state-local tobacco assistance account created in Section 9 of this Act, specifically reviewing proposals for expenditures from the

fund or account and taking action to approve or disapprove those proposals;

(h) Providing reports to the Master Settlement Agreement Oversight Subcommittee created by Section 11 of this Act. These reports shall contain detailed information relating to each proposed project that is being recommended by the board, as well as projects denied by the board; and

(i) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Master Settlement Agreement Oversight Subcommittee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board.

(2) In administering the funds under subsection (1)(g) of this section, the board shall be governed by the following principles:

(a) Individuals, groups, educational institutions, governmental entities, and other agriculturally related entities are eligible to receive moneys from the funds; and

(b) No more than one percent (1%) of the fund's annual receipts shall be expended on the administrative costs of the board.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Programs created, funded, or overseen by the board shall include:

(a) A Phase II Supplement Program to ensure that payments to tobacco quota owners and growers are maintained at the same level as the 1999 level of one hundred fourteen million dollars ($114,000,000). The board shall utilize the Kentucky Tobacco Settlement Trust Corporation in determining the payments to tobacco quota owners and growers. Funds for the Phase II Supplement Program are described in Section 3 of this Act;

(b) Programs using the state tobacco assistance funds described in Section 7 of this Act. Those funds shall be used as follow:

1. Fifty percent (50%) for a farm market development and infrastructure program to develop regional, integrated farm markets, and regional or community capital projects;

2. Twenty percent (20%) for an entrepreneurship program to support farm agricultural diversification through initiatives like aquaculture and horticulture;

3. Twenty percent (20%) to an environmental stewardship program to provide cost-share assistance to farmland owners for compliance with the state agriculture water quality plan and other environmental compliance requirements; and

4. Ten percent (10%) to a farmland preservation program to provide purchase of agricultural conservation easement matching funding to city, county, or urban-county governments that have enacted agricultural conservation easement acquisition programs for the purchase of agricultural development rights.

(2) The board may create other agricultural assistance programs in addition to those created under subsection (3) of this section.

(3) The board shall determine which individual projects in each program are approved.

SECTION 7. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

The "State Tobacco Assistance Fund" is created in the State Treasury. The fund shall receive fifty percent (50%) of the remaining funds from the rural development fund as described in subsections (1)(b) and (2)(b) of Section 2 of this Act. One-third (1/3) of the moneys in this fund shall be further allocated to a state/local tobacco assistance account. The remaining two-thirds (2/3) of this fund shall be administered by the Rural Development Board created in Section 4 of this Act and shall be used as directed in that section.

SECTION 8. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "Local Tobacco Assistance Fund" is created in the State Treasury. The fund shall receive fifty percent (50%) of the remaining funds from the rural development fund as described in subsections (1)(b) and (2)(b) of Section 2 of this Act:

(a) One-third (1/3) of the moneys in this fund shall be further allocated to a state/local tobacco assistance account.

(b) The remaining two-thirds (2/3) of this fund shall be used as set out in this section.

(2) One-quarter of one percent (.25%) of the funds described in subsection (1)(b) of this section shall be provided to the Kentucky Department of Agriculture for assistance provided by the department to the local tobacco assistance boards as outlined in subsection (3) of this section, and three-quarters of one percent (.75%) shall be provided to the County Extension Service Offices for assistance provided by the offices to the local tobacco assistance boards as outlined in subsection (4)(d) of this section. The funds for the County Extension Service Offices shall be based on the distributions to the individual counties as set out in subsection (4) of this section and shall be allocated directly to each County Extension Service Office.

(3) The Tobacco Assistance Office is created in the Kentucky Department of Agriculture. The office shall provide

assistance to the local tobacco assistance boards, authorized in subsection (4) of this section, as the boards carry out their duties as outlined in that subsection. The duties of the office shall include but not be limited to the following:

(a) Designing an application form for those who wish to apply to the local tobacco assistance boards for funds available under subsection (4) of this section;

(b) Developing criteria and procedures according to Kentucky statutes or administrative regulations for the local tobacco assistance boards to use in evaluation and processing applications;

(c) Providing technical support, training, and assistance to the local tobacco assistance boards; and

(d) Submitting the determinations on applications made by local tobacco assistance boards to the Master Settlement Agreement Oversight Subcommittee created in Section 11 of this Act.

(4) A local tobacco assistance board shall be established in each tobacco-producing county to oversee a county account described in subsection (5) of this section.

(a) The local board shall receive applications and determine which applicants shall receive funding from the county account according to terms set out in subsection (6) of this section. The local board shall forward these determinations to the Tobacco Assistance Office in the Department of Agriculture which shall submit the determinations on behalf of the local boards to the Master Settlement Agreement Oversight Subcommittee created in Section 11 of this Act.

(b) Membership on the local tobacco assistance boards shall include:

1. Two (2) members selected by the county Farm Service Agency board that serves that county;

2. Two (2) members selected by the Natural Resources Conservation Service board that serves that county;

3. Two (2) members selected by the Cooperative Extension Service board that serves that county; and

4. Two (2) members, who are young farmers between the ages of twenty-one (21) and thirty-five (35), selected by the members in subparagraphs 1. to 3. of this paragraph.

(c) Members shall initially be appointed by September 1, 2000. These members shall serve until June 30, 2002. On July 1, 2002, and every two (2) years thereafter, members shall be appointed for two (2) year terms.

(d) The tobacco assistance board shall be attached to the County Cooperative Extension Service Office for administrative support.

(e) No existing member, or his or her family member, of the local Farm Service Agency board, the local Natural Resources Conservation Service board, or the local county Cooperative Extension Service board involved in the selection of local tobacco assistance board members shall be eligible for service on the local tobacco assistance board.

(5) The moneys received in the local tobacco assistance fund as outlined in subsection (1)(b) of this section, less the amounts for County Extension Service Offices and the Department of Agriculture outlined in subsection (2) of this section, shall be distributed to accounts for each of the tobacco-producing counties within twenty (20) days of receipt of moneys in the local tobacco assistance fund each year. The amount going to accounts created for each tobacco-producing county shall be based on the following weighted factors:

(a) Fifty percent (50%) weight to the county's percentage of the state's tobacco allotment based on 1999 data;

(b) Twenty-five percent (25%) weight to the county's number of farms with tobacco quotas in the county as a percentage of farms with tobacco quotas statewide, based on 1999 data; and

(c) Twenty-five percent (25%) weight to the economic impact index for each county, which shall be calculated in the following manner:

1. The tobacco income for each county (1997 burley tobacco production times average burley market price) divided by the total personal income for each county. The data used shall reflect the year most recently available for total personal income.

2. The percentage derived in subparagraph 1. of this paragraph (tobacco income as a percentage of total personal income for each county) shall then be summed across all counties.

3. The economic impact index amount shall be each county's tobacco income as a percentage of total personal income, divided by the aggregate percentage stated in subparagraph 2. of this paragraph.

(6) Use and restrictions on the funds in tobacco-producing counties' accounts described in subsection (5) of this section shall include the following:

(a) Funds may be used for deferred or no or low-interest venture capital loans to enhance tobacco farms' revenues by initiating:

1. Current farming techniques or practices improvements; and

2. New farming ventures on the farm.

Terms of the loans shall include a limit on deferral of payment of interest or principal to five (5) years, and a limit on low interest loans of zero percent (0.0%) to four percent (4%). Repaid loans and interest shall be returned to the appropriate county's account;

(b) Funds may be used as grants for local economic development projects in tobacco-producing counties;

(c) Funds may be used as grants for water line extension to tobacco farms or for a fifty percent (50%) match for water improvements on tobacco farms; and

(d) Eligibility for funds in paragraphs (a) to (c) of this subsection shall require that:

1. Tobacco farmers shall be given priority;

2. Applicants shall have sufficient equity to assure a reasonable chance of success of the action proposed for funding;

3. Small farmers shall have as equal access to the funds as large farmers; and

4. No individual farmer shall receive more than five percent (5%) of the funds available to a tobacco-producing county's account, under subsection (5) of this section, in any year.

(7) Funds available under subsection (5) of this section shall not be used for operating expenses.

SECTION 9. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "State/local Tobacco Assistance Account" is created in the State Treasury. The account shall receive moneys from the state tobacco assistance fund as described in Section 7 of this Act and the local tobacco assistance fund as described in Section 8 of this Act.

(2) Moneys in the state-local tobacco assistance account shall be allocated to county accounts using the same formula as provided in subsection (5) of Section 8 of this Act.

(3) The moneys in these accounts shall only be provided for projects approved by the Rural Development Board.

(4) Projects may include grants or loans to individuals, counties, multicounty groupings, or other projects similar to those that may be approved for the state tobacco assistance fund and the local tobacco assistance fund.

(5) Each local board shall be encouraged to utilize the services of the Kentucky Small Business Development Center Network for assistance and support in aiding prospective applicants in obtaining moneys from the local tobacco assistance fund.

(6) Local boards shall be encouraged to work cooperatively with each other to develop multicounty and regional strategies for enhancing agriculture opportunities for farmers.

SECTION 10. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) Those agencies and educational institutions that receive agriculturally-related funding under the provisions of Sections 1 to 11 of this Act, and those that receive state funding relating to assisting agriculture and farmers in this state shall devote efforts to revitalization and diversification of tobacco farms.

(2) Each agency or institution in subsection (1) of this section shall issue a semiannual report on the details of the efforts it is carrying out to revitalize and diversify tobacco farms. The report shall include details of successes that have been achieved. The report shall be provided to the Master Settlement Agreement Oversight Subcommittee created in Section 11 of this Act.

SECTION 11. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Master Settlement Agreement Oversight Subcommittee. The subcommittee shall be composed of seven (7) members and shall include four (4) members of the House of Representatives and three (3) members of the Senate. The subcommittee members shall include majority and minority members in numbers as nearly proportional to their membership in each of the respective chambers as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years. The members so appointed shall elect one (1) of their number to serve as chairman. Any vacancy which may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.

(2) The purpose of the subcommittee shall be to review all proposed expenditures of Master Settlement Agreement funds to ensure compliance with state statutes and legislative intent.

(3) The subcommittee shall meet monthly, and may meet more frequently when necessary, at such time and place as the chairman may determine. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3).

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

(5) A report on each proposed expenditure using Master Settlement Agreement funds shall be provided by the entity

proposing the expenditure to the subcommittee on a monthly basis. The entities shall include in their reports to the subcommittee all projects that were denied funding along with other actions taken by the entity regarding funding.

(6) In reviewing proposed expenditures of Master Settlement Agreement funds, the subcommittee shall determine whether the proposed expenditure has met all the relevant requirements of:

  (a) Criteria for various types of expenditures using Master Settlement Agreement funding as set out in various statutes and administrative regulations;

  (b) Compliance with the legislative intent of Sections 1 to 11 of this Act; and

  (c) Any other statutes relevant to the committee's oversight.

(7) If the subcommittee determines that any of the requirements in subsection (6) of this section have not been met, the committee may, by majority vote, hold the expenditure in abeyance. This expenditure shall not be carried out until it is made to comply with the requirements of subsection (6) of this section or the expenditure is approved by the General Assembly at its next regular session.

(8) If the applicant or the party proposing the expenditure does not agree with the subcommittee action and wishes to pursue it further, the Master Settlement Agreement Oversight Subcommittee shall submit the expenditure proposal to the General Assembly at its next regular session for approval or denial.

(9) The Master Settlement Agreement Oversight Subcommittee shall compile an annual report for each fiscal year summarizing expenditure and funding activities involving Master Settlement Agreement funding.

Section 12. Funds are hereby appropriated as allocated in Section 2 of this Act.

Section 13. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Amendment No. 1 Title to **HB 611** is as follows:

By amending the title to read as follows: "AN ACT relating to the tobacco Master Settlement Agreement, making an appropriation therefor, and declaring an emergency.".

The Committee Substitute No. 2 to **HB 706** is as follows:

HB 706, AN ACT relating to early childhood development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

PART I

EARLY CHILDHOOD DEVELOPMENT AUTHORITY

SECTION 1. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority is established as a public agency and political subdivision of the Commonwealth with all powers, duties, and responsibilities conferred upon it by statute and essential to perform its functions including, but not limited to, employing other persons, consultants, attorneys, and agents. The authority shall be attached to the Office of the Governor, Office of Early Childhood Development, for administrative purposes and shall establish necessary advisory councils. The authority shall have the ability to make expenditures from the early childhood development fund and shall ensure that expenditures made from the early childhood development fund are in conformance with its duties as established by the General Assembly.

(2) The authority shall consist of the following seventeen (17) members:

  (a) The executive director of the Governor's Office of Early Childhood Development, who shall serve as chair;

  (b) The secretary of the Education, Arts, and Humanities Cabinet;

  (c) The secretary of the Cabinet for Health Services;

  (d) The secretary of the Cabinet for Families and Children;

  (e) One (1) nonvoting ex officio member from the House of Representatives who shall be appointed by and serve at the pleasure of the Speaker of the House;

  (f) One (1) nonvoting ex officio member from the Senate who shall be appointed by and serve at the pleasure of the President of the Senate;

  (g) Seven (7) private sector members knowledgeable about the health, education, and development of preschool children who shall be appointed by the Governor. At least one (1) private sector member shall be appointed from each congressional district;

  (h) Three (3) citizens at large of the Commonwealth who shall be appointed by the Governor; and

(i) One (1) early childhood development advocate.

(3) No later than thirty (30) days after the effective date of this Act, the governing bodies of each of the following organizations shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, as candidates for initial appointment by the Governor as private sector members to the authority:

(a) The Kentucky AFL-CIO;

(b) The Kentucky Chamber of Commerce;

(c) The Kentucky League of Cities;

(d) The Kentucky Medical Association;

(e) The Louisville Urban League and Lexington Urban League;

(f) The Kentucky County Judge/Executives Association; and

(g) The Kentucky Council on Postsecondary Education.

(4) The Governor shall select the private sector members of the authority by selecting one (1) nominee from each list of the three (3) nominees submitted to the Governor by each organization listed under subsection (3) of this section. The Governor shall fill a vacancy occurring before the expiration of the appointed term from the appropriate list of nominees. If there are no nominees remaining on the appropriate list, the Governor shall request a list of additional nominees from the appropriate organization.

(5) (a) The initial terms of the private sector and citizen at-large members of the authority shall be for:

1. One (1) year for two (2) of the initial terms;

2. Two (2) years for three (3) of the initial terms;

3. Three (3) years for two (2) of the initial terms; and

4. Four (4) years for four (4) of the initial appointments.

(b) All succeeding appointments shall be for four (4) years from the expiration date of the preceding appointment.

(c) Members shall serve until a successor has been appointed.

(6) Private sector and citizen at-large members shall serve without compensation but shall be reimbursed for reasonable and necessary expenses.

(7) In making appointments to the authority, the Governor shall assure broad geographical, ethnic, and gender diversity representation from the major sectors of Kentucky's early childhood development community. In filling vacancies, the Governor shall attempt to assure the continuing representation on the authority of broad constituencies of Kentucky's early childhood development community.

(8) Upon the expiration of the term of any member, the governing body of the organization that made the original recommendation shall recommend three (3) persons, at least one (1) of whom shall be male and at least one (1) of whom shall be female, between sixty (60) and thirty (30) days before the expiration of the term of any authority member who is appointed as a result of a previous recommendation. The Governor shall, during March of the year that any organization is to recommend three (3) persons, request the organization to recommend three (3) persons for possible appointment to the authority. If there is no response, the Governor shall make the appointment from the population of the Commonwealth.

(9) The authority shall meet at least quarterly and at other times upon call of the chair or a majority of the authority.

(10) Members of the authority shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

SECTION 2. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The authority shall establish priorities for programs and the expenditure of funds that include, but are not limited to, the following:

(a) Implementation of public health initiatives identified by the General Assembly;

(b) Provision of preconceptional and prenatal vitamins, with priority for folic acid for the prevention of neural tube defects;

(c) Voluntary immunization for children not covered by public or private health insurance;

(d) Availability of high-quality, affordable early child-care and education options; and

(e) Increased public awareness of the importance of the early childhood years for the well-being of all Kentucky's citizens.

(2) The authority shall develop a state plan on a biennial basis that identifies early childhood development funding priorities. Every two (2) years the authority shall review its priorities and make necessary adjustments to its state plan. The state plan shall incorporate priorities included in "KIDS NOW: Kentucky Invests in Developing Success, a Report from the Governor's Early Childhood Task Force, November 1999," and recommendations identified by the

community early childhood councils. The authority shall file a report on the state plan with the Governor and the Legislative Research Commission by July 15 of odd-numbered years.

(3) Programs funded by the authority shall be implemented by the appropriate agencies within the Cabinet for Health Services, the Cabinet for Families and Children, the Education, Arts, and Humanities Cabinet, the Finance and Administration Cabinet, or other appropriate administrative agency.

(4) The authority shall assure that a public hearing is held on the expenditure of funds. Advertisement of the public hearing shall be published at least once but may be published two (2) more times, if one (1) publication occurs not less than seven (7) days nor more than twenty-one (21) days before the scheduled date of the public hearing.

(5) The authority shall promulgate administrative regulations in accordance with KRS Chapter 13A to:

(a) Coordinate and improve early childhood development services, outcomes, and policies;

(b) Establish procedures that relate to its governance;

(c) Designate service areas of the Commonwealth where the community early childhood councils may be established to identify and address the early childhood development needs of young children and their families for the communities that they serve;

(d) Establish procedures that relate to the monitoring of grants, services, and activities of the community early childhood councils and their governance;

(e) Establish procedures for accountability and measurement of the success of programs that receive funds from the authority; and

(f) Establish standards for the payment of funds to a designated service provider and grantee of a community early childhood council. These standards shall include requirements relating to:

1. The financial management of funds paid to grantees;

2. The maintenance of records; and

3. An independent audit of the use of grant funds.

(6) The authority may disband or suspend a council, and may remove one (1) or more members for nonperformance or malfeasance. The authority may also recover funds that have been determined by the authority to have been misappropriated or misspent in relation to a grant award.

(7) An appeal to the authority may be made by a council as to a decision made by the authority on the disbanding or suspension of a council, service provider, or grantee on a determination that funds have been misappropriated or misspent and are subject to recovery. The appeal shall be conducted in accordance with KRS Chapter 13B.

(8) The authority, councils established by the authority, and initiatives funded by the authority with expenditures from the early childhood development fund shall expire when:

(a) Funds are no longer designated to the Commonwealth from the master settlement agreement signed on November 22, 1998, between the participating tobacco manufacturers and the forty (40) settling states or related federal legislation; or

(b) Funds are no longer designated to the early childhood development fund from gifts, grants, or federal funds to fund the authority, the councils established by the authority or any programs that had been funded by the authority with expenditures from the early childhood development fund.

SECTION 3. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

The Office of Early Childhood Development in the Office of the Governor shall provide staffing and administrative support to:

(1) The Early Childhood Development Authority;

(2) The Early Childhood Business Council;

(3) The Early Childhood Professional Development Council; and

(4) The Kentucky Early Intervention System Interagency Coordinating Council.

PART 2

ADVISORY COUNCILS

2A. COMMUNITY EARLY CHILDHOOD COUNCILS

SECTION 4. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The family resource center and the child-care resource and referral agency in the service area shall form community early childhood councils and appoint members to the council for each service area designated under Section 2 of this Act. A council shall be composed of no fewer than seven (7) and no more than twenty-seven (27) members. Members may be appointed who represent local agencies and organizations listed below, with no more than one (1) member from each:

(a) Early childhood advocate;

(b) Faith community;

(c) School district;

(d) Family resource center;

(e) Military establishment;

(f) Head Start or Early Head Start;

(g) Child-care (profit, nonprofit, or family child-care);

(h) Child-care resource and referral agency or child-care subsidy agent;

(i) Child-care consumer or parent;

(j) County cooperative extension service;

(k) Department for public health;

(l) University, college, or technical school;

(m) United Way;

(n) Kentucky Early Intervention System;

(o) Agency administering services to children with disabilities;

(p) Home visitation agency;

(q) Family literacy agency;

(r) Civic organization;

(s) Public library;

(t) Regional training center;

(u) Community action agency;

(v) Government;

(w) Business community;

(x) Home schooling association;

(y) Health care professional;

(z) Foster care parent; or

(aa) Adoptive parent.

(2) Members shall serve on a community early childhood council on a voluntary basis and receive no compensation or expense reimbursement for their service.

(3) (a) Members shall serve for a term of two (2) years and until their successors are appointed, except that for those members initially appointed, the terms shall be as follows:

1. One-third (1/3) of the members shall be appointed for three (3) years;

2. One-third (1/3) shall be appointed for two (2) years; and

3. One-third (1/3) shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments.

(4) A community early childhood council shall collaborate with the District Early Intervention Committee, the Preschool Interagency Planning Council, and other existing interagency groups in the service area.

(5) A community early childhood council may apply for a competitive grant from the authority, consistent with a state plan for grant participation as established by the authority. Grant proposals shall:

(a) Include a needs assessment and budget proposal for the respective service area served by a council;

(b) Not include administrative costs that exceed five percent (5%); and

(c) Contain a signed statement from each member of the council certifying that no program, agency, or individual that may receive part of an award would constitute a conflict of interest under KRS Chapter 11A for the council member. Issues concerning conflicts of interest shall be submitted to the Executive Branch Ethics Commission for resolution.

(6) A community early childhood council shall submit a quarterly report to the authority that details the activities and services of the council, including the progress that the council has made toward addressing the early childhood development goals for its designated service area and recommendations that may be included in the state plan.

(7) Any records that are in the custody of a community early childhood council, a designated service provider, or a grantee that contain personal and identifying information relating to a family or children receiving services through the council shall be confidential and not subject to public disclosure, except as otherwise authorized by law.

2B. THE EARLY CHILDHOOD BUSINESS COUNCIL

SECTION 5. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Business Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The function of the council shall be to:

(a) Involve the corporate community, county judge/executives, and mayors in supporting issues of importance to working families with young children in the Commonwealth; and

(b) Collect and disseminate information about the various ways business and local government can become involved in supporting early childhood.

(2) (a) The Early Childhood Business Council shall consist of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall serve for a term of two (2) years and until their successors are appointed and qualify, except that for those members initially appointed, the terms are as follows:

1. Five (5) members shall be appointed for three (3) years;

2. Five (5) members shall be appointed for two (2) years; and

3. Five (5) members shall be appointed for one (1) year.

(b) Vacancies shall be appointed for unexpired terms in the same manner as original appointments. Members may not serve more than a total of three (3) terms.

(c) Members who are eligible to be appointed shall have demonstrated an investment or interest in early childhood development.

(3) Members of the Early Childhood Business Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

(4) The Early Childhood Business Council shall meet at least once every three (3) months and shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

2C. EARLY CHILDHOOD
PROFESSIONAL DEVELOPMENT COUNCIL

SECTION 6. A NEW SECTION OF KRS CHAPTER 200 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Professional Development Council is created and attached to the Office of Early Childhood Development, Office of the Governor, for administrative purposes. The Early Childhood Professional Development Council shall be composed of fifteen (15) members appointed by the Governor, who shall also appoint the chair. Members shall be appointed for a term of four (4) years and the council shall cease to exist four (4) years after the effective date of this Act, unless reauthorized by the General Assembly. Members of the council shall have experience in early child care and education.

(2) The Early Childhood Professional Development Council, in collaboration with the Council on Postsecondary Education, shall:

(a) Work with existing entities to develop an early child care and education credential system to facilitate the attraction and retention of persons who provide early child-care and education services;

(b) Work to develop a seamless system of professional development beginning with entry level employment in early child care and education and proceeding through a master's degree-level program.

(3) The Early Childhood Professional Development Council shall make reports in accordance with requirements established by the authority that include recommendations for the state plan.

(4) Members of the Early Childhood Professional Development Council shall serve on a voluntary basis, receive a fixed per diem set by the authority, and be reimbursed for their expenses in accordance with state travel expense and reimbursement administrative regulations.

2D. KENTUCKY EARLY INTERVENTION SYSTEM
INTERAGENCY COORDINATING COUNCIL

Section 7. KRS 200.658 is amended to read as follows:

(1) There is hereby created the Kentucky Early Intervention System Interagency Coordinating Council to be comprised of twenty-five (25) members to be appointed by the Governor to serve a term of three (3) years. The members of the council shall be geographically and culturally representative of the population of the Commonwealth and conform to the requirements of federal law and regulations. For administrative purposes, the council shall be attached to the *Early Childhood Development Authority*~~[Cabinet for Health Services]~~. Pursuant to federal law and regulations, the membership shall be as follows:

(a) At least five (5) members shall be the parents, including minority parents, of a child with a disability who is twelve

(12) years of age or less, with at least one (1) being the parent of a child six (6) years of age or less. Each parent shall have knowledge of or experience with programs for infants and toddlers with disabilities;

(b) At least five (5) members shall be public or private providers of early intervention services to infants and toddlers with disabilities;

(c) At least one (1) member shall be a member of the Kentucky General Assembly;

(d) At least one (1) member shall be representative of an entity responsible for personnel preparation and may include personnel from an institution of higher education or preservice training organization;

(e) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Public Health;

(f) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Medicaid Services;

(g) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Mental Health and Mental Retardation Services;

(h) At least one (1) member shall be the commissioner or individual serving in a position of equivalent authority, or the designee, from the Department for Social Services;

(i) At least one (1) member shall be the commissioner or designee of the Department of Education;

(j) At least one (1) member shall be the commissioner or designee of the Department of Insurance; and

(k) At least one (1) member shall be a representative of the Commission for [~~Handicapped~~]Children ***with Special Health Care Needs***.

(2) In matters concerning the Kentucky Early Intervention System, the council shall advise and assist the cabinet in areas including, but not limited to, the following:

(a) Development and implementation of the statewide system and the administrative regulations promulgated pursuant to KRS 200.650 to 200.676;

(b) Achieving the full participation, coordination, and cooperation of all appropriate entities in the state, including, but not limited to, individuals, departments, and agencies, through the promotion of interagency agreements;

(c) Establishing a process to seek information from service providers, service coordinators, parents, and others concerning the identification of service delivery problems and the resolution of those problems;

(d) Resolution of disputes, to the extent deemed appropriate by the cabinet;

(e) Provision of appropriate services for children from birth to ***three (3)***[~~five (5)~~] years of age;

(f) Identify sources of fiscal and other support services for early intervention programs;

(g) Preparing applications to Part ***C***[~~H~~] of the Federal Individuals with Disabilities Education Act (IDEA) and any amendments to the applications; and

(h) Transitioning of infants and toddlers with disabilities and their families from the early intervention system to appropriate services provided under Part B of the Federal Individuals with Disabilities Education Act (IDEA) operated by the state Department of Education.

(3) The council shall prepare no later than December 30 of each year an annual report on the progress toward and any barriers to full implementation of the Kentucky Early Intervention System for infants and toddlers with disabilities and their families. The report shall include recommendations concerning the Kentucky Early Intervention System and shall be submitted to the Governor, Legislative Research Commission, and the Secretary of the United States Department of Education.

(4) No member of the council shall cast a vote on any matter which would provide direct financial benefit to that member or otherwise give the appearance of the existence of a conflict of interest.

PART 3

EARLY CHILDHOOD HEALTH INITIATIVE

Section 8. KRS 156.160 is amended to read as follows:

(1) With the advice of the Local Superintendents Advisory Council, the Kentucky Board of Education shall promulgate administrative regulations establishing standards which school districts shall meet in student, program, service, and operational performance. These regulations shall comply with the expected outcomes for students and schools set forth in KRS 158.6451. Administrative regulations shall be promulgated for the following:

(a) Courses of study for the different grades and kinds of common schools identifying the common curriculum content directly tied to the goals, outcomes, and assessment strategies developed under KRS 158.645, 158.6451, and KRS 158.6453 and distributed to local school districts and schools. They shall include the following: The courses of study for students shall include American sign language which shall be accepted as meeting the foreign language requirements in common schools notwithstanding other provisions of law;

(b) The acquisition and use of educational equipment for the schools as recommended by the Council for Education Technology;

(c) The minimum requirements for high school graduation in light of the expected outcomes for students and schools set forth in KRS 158.6451. Student scores from any assessment administered under KRS 158.6453 that are determined by the National Technical Advisory Panel to be valid and reliable at the individual level shall be included on the student transcript. The National Technical Advisory Panel shall submit its determination to the commissioner of education and the Legislative Research Commission;

(d) Taking and keeping a school census, and the forms, blanks, and software to be used in taking and keeping the census and in compiling the required reports. The board shall create a statewide student identification numbering system based on students' Social Security numbers. The system shall provide a student identification number similar to, but distinct from, the Social Security number, for each student who does not have a Social Security number or whose parents or guardians choose not to disclose the Social Security number for the student;

(e) Sanitary and protective construction of public school buildings, toilets, physical equipment of school grounds, school buildings, and classrooms. With respect to physical standards of sanitary and protective construction for school buildings, the Kentucky Board of Education shall adopt the Uniform State Building Code;

(f) Medical inspection, physical and health education and recreation, and other regulations necessary or advisable for the protection of the physical welfare and safety of the public school children. The administrative regulations shall set requirements for student health standards to be met by all students in grades four (4), eight (8), and twelve (12) pursuant to the outcomes described in KRS 158.6451. The administrative regulations shall permit a student who received a physical examination no more than six (6) months prior to his initial admission to Head Start to substitute that physical examination for the physical examination required by the Kentucky Board of Education of all students upon initial admission to the public schools, if the physical examination given in the Head Start program meets all the requirements of the physical examinations prescribed by the Kentucky Board of Education;

(g) ***A vision examination by an optometrist or ophthalmologist that shall be required by the Kentucky Board of Education. The administrative regulations shall require evidence to be submitted by all students upon initial admission to the public schools or within thirty (30) days of admission to public preschool and headstart programs, that a vision examination that meets the criteria prescribed by the Kentucky Board of Education has been performed at some time prior to initial admission to the public schools;***

(h) The transportation of children to and from school;

(i)[~~(h)~~] The fixing of holidays on which schools may be closed and special days to be observed, and the pay of teachers during absence because of sickness or quarantine or when the schools are closed because of quarantine;

(j)[~~(i)~~] The preparation of budgets and salary schedules for the several school districts under the management and control of the Kentucky Board of Education;

(k)[~~(j)~~] A uniform series of forms and blanks, educational and financial, including forms of contracts, for use in the several school districts; and

(l)[~~(k)~~] The disposal of real and personal property owned by local boards of education.

(2) (a) At the request of a local board of education or a school council, a local school district superintendent shall request that the Kentucky Board of Education waive any administrative regulation promulgated by that board. Beginning in the 1996-97 school year, a request for waiver of any administrative regulation shall be submitted to the Kentucky Board of Education in writing with appropriate justification for the waiver. The Kentucky Board of Education may approve the request when the school district or school has demonstrated circumstances that may include, but are not limited to, the following:

1. An alternative approach will achieve the same result required by the administrative regulation;
2. Implementation of the administrative regulation will cause a hardship on the school district or school or jeopardize the continuation or development of programs; or
3. There is a finding of good cause for the waiver.

(b) The following shall not be subject to waiver:

1. Administrative regulations relating to health and safety;
2. Administrative regulations relating to civil rights;
3. Administrative regulations required by federal law; and
4. Administrative regulations promulgated in accordance with KRS 158.6451, 158.6453, 158.6455, 158.685, and this section, relating to measurement of performance outcomes and determination of successful districts or schools, except upon issues relating to the grade configuration of schools.

(c) Any waiver granted under this subsection shall be subject to revocation upon a determination by the Kentucky

Board of Education that the school district or school holding the waiver has subsequently failed to meet the intent of the waiver.

(3) Any private, parochial, or church school may voluntarily comply with curriculum, certification, and textbook standards established by the Kentucky Board of Education and be certified upon application to the board by such schools.

Section 9. KRS 211.645 is amended to read as follows:

As used in KRS 211.647 and ***Section 11 of this Act***[~~213.046~~], unless the context requires otherwise:

(1) "Cabinet" means the Cabinet for Health Services;

(2)[~~ "Certificate" means the certificate of birth required by KRS 213.046;~~

~~(3)~~] "Commission" means the Commission for Children with Special Health Care Needs;

(3)[~~(4)~~]"Hard of hearing infant" means a child at birth with a significant hearing loss which prevents the acquisition of speech and language through normal channels;

(4)[~~(5)~~]***"Auditory screening report" means a written evaluation of an auditory screening as required under Section 11 of this Act***[~~"Hearing risk certificate" means the certificate that includes questions which identify newborn babies with a higher risk than normal for hearing loss~~];

(5)[~~(6)~~]***"Infant at high risk of hearing loss"***[~~"High-risk infant"~~] means a child at birth who is at a higher risk than normal of being hard of hearing due to one (1) or more of the following factors present at birth:

(a) Family history of a congenital hearing loss;

(b) Rubella or virus during pregnancy;

(c) Congenital ear, nose, or throat anomalies;

(d) Below-normal birth weight;

(e) Abnormal level of jaundice;

(f) Anoxia or apnea;[~~ and~~]

(g) A low APGAR score derived from the evaluation of the infant's color, muscle tone, reflexes, pulse rate, and respiration***; or***

(h) An auditory screening indicating a hearing loss.

Section 10. KRS 211.647 is amended to read as follows:

(1) The commission, on receipt of ***an auditory screening report of an infant from a hospital or alternative birthing center in accordance with Section 11 of this Act shall review each auditory screening report that indicates a potential hearing loss. The commission shall contact the parents to schedule follow-up evaluations or make a referral for evaluations within three (3) business days***[~~the hearing risk certificates from the cabinet, shall conduct activities necessary to identify high-risk infants. It shall establish a program to provide medical and educational information to the families, assist the families in securing screening, diagnostic, and medical services at a minimal cost at a center or at a location as close to the child's residence as possible and refer the parents to agencies or organizations which provide educational programs for the child and the family~~].

(2) [~~The commission's process for identifying high-risk infants shall include a timely review of all hearing risk certificates to identify the presence of factors determined to occur frequently with hearing loss in newborn infants. ~~]The commission shall secure information missing from ***birth*** certificates ***or hospital referral reports*** which is relevant to identifying[~~ high-risk~~] infants ***with a hearing loss***.

(3) ***If the hearing evaluation performed by the commission contains evidence of a hearing loss, within forty-eight (48) hours the commission shall:***

(a) Contact the attending physician and parents; and

(b) Make a referral to the Kentucky Early Intervention System point of entry in the service area of the child's residence for services under KRS 200.664.

(4) The commission shall forward a report of a hearing evaluation that indicates a hearing loss, with no information that personally identifies the child, to:

(a) The Kentucky Commission on the Deaf and Hard of Hearing for census purposes; and

(b) The Kentucky Birth Surveillance Registry for information purposes.

(5) [~~The commission shall involve agencies and organizations which provide services to deaf and hard of hearing children, including, but not limited to, the Department of Education, the Cabinet for Health Services, and the Commission on the Deaf and Hard of Hearing, in planning for and implementation of this section. ~~]Cumulative demographic data of identified[~~ high-risk~~] infants ***with a hearing loss*** shall be made available to agencies and organizations ***including, but not limited to, the Cabinet for Health Services and the Early Childhood Development Authority,*** requesting the information for planning purposes.

SECTION 11. A NEW SECTION OF KRS CHAPTER 216 IS CREATED TO READ AS FOLLOWS:

(1) As a condition of licensure or relicensure, all hospitals offering obstetric services and alternative birthing centers with at least forty (40) births per year shall provide an auditory screening for all infants using one (1) of the methods approved by the Early Childhood Development Authority by administrative regulation promulgated in accordance with KRS Chapter 13A.

(2) An auditory screening report that indicates a finding of potential hearing loss shall be forwarded by the hospital or alternative birthing center within twenty-four (24) hours of receipt to the:

(a) Attending physician;

(b) Parents; and

(c) Commission for Children with Special Health Care Needs for evaluation or referral for further evaluation in accordance with Section 10 of this Act.

(3) An auditory screening report that does not indicate a potential hearing loss shall be forwarded within one (1) week to the Commission for Children with Special Health Care Needs with no information that personally identifies the child.

PART 4

EARLY CHILDHOOD PARENTING SUPPORT

SECTION 12. A NEW SECTION OF KRS CHAPTER 211 IS CREATED TO READ AS FOLLOWS:

(1) There is established within the Cabinet for Health Services the Health Access Nurturing Development Services (HANDS) program as a voluntary statewide home visitation program, for the purpose of providing assistance to at-risk parents during the prenatal period and until the child's third birthday. The HANDS program recognizes that parents are the primary decision-makers for their children. The goals of the HANDS program are to:

(a) Facilitate safe and healthy delivery of babies;

(b) Provide information about optimal child growth and human development;

(c) Facilitate the safety and health of homes; and

(d) Encourage greater self-sufficiency of families.

(2) The cabinet shall administer the HANDS program in cooperation with the Cabinet for Families and Children and the local public health departments. The voluntary home visitation program may supplement, but shall not duplicate, any existing program that provides assistance to parents of young children.

(3) Participants in the HANDS program shall express informed consent to participate by written agreement on a form promulgated by the Cabinet for Health Services.

PART 5.

ACCESS TO QUALITY CHILD CARE

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to create a seamless system to upgrade the professional development of persons who are employed or provide training in a child-care or early childhood setting through scholarships, merit awards, and monetary incentives, to assist these persons in obtaining a child development associate credential, post-secondary certificate, diploma, degree, or specialty credential in an area of study determined by the authority as recommended by the professional development council.

(2) Eligibility for scholarship funds shall be for individuals who do not have access to professional development funds from other education programs that receive state or federal funds, and who are:

(a) Employed at least twenty (20) hours per week providing services in a child-care or early childhood setting; or

(b) Involved in providing professional development training for teachers in an early childhood setting.

(3) The Kentucky Higher Education Assistance Authority, after consultation with the Early Childhood Development Authority and the Cabinet for Families and Children, shall promulgate administrative regulations, including a system of monetary incentives for scholarship program participants for completing classes, in accordance with KRS Chapter 13A as necessary to implement this section.

SECTION 14. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, by administrative regulation promulgated in accordance with KRS Chapter 13A, establish a program of monetary incentives including but not limited to an increased child-care subsidy and a one-time merit achievement award for child-care centers and certified family child-care homes that are tied to a quality rating system for child care as established under Section 15 of this Act.

(2) The monetary incentive program shall be reviewed annually by the authority for the purpose of determining future opportunities to provide incentives.

(3) Participation in the program of monetary incentives and in the quality rating system by child-care centers and certified family child-care homes is voluntary.

(4) The Cabinet for Families and Children shall encourage the professional development of persons who are employed or provide training in a child-care or early childhood setting by facilitating their participation in the scholarship program for obtaining a child development associate credential, postsecondary certificate, diploma, degree, or specialty credential as established under Section 13 of this Act.

SECTION 15. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The Early Childhood Development Authority shall, in consultation with child-care providers, the Cabinet for Families and Children, the Cabinet for Health Services, and others, including but not limited to child-care resource and referral agencies and family resource centers, develop a voluntary quality-based graduated child-care rating system for licensed child-care and certified family child-care homes based on, but not limited to:

- *(a) Child to caregiver ratios;*
- *(b) Child-care staff training;*
- *(c) Program curriculum; and*
- *(d) Program regulatory compliance.*

(2) The Cabinet for Families and Children shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement:

- *(a) The voluntary quality-based graduated child-care rating system for child-care and certified family child-care homes developed under subsection (1) of this section;*
- *(b) Agency time frames of reviews for rating;*
- *(c) An appellate process under KRS Chapter 13B; and*
- *(d) The ability of providers to request reevaluation for rating.*

SECTION 16. A NEW SECTION OF KRS 199.892 TO 199.896 IS CREATED TO READ AS FOLLOWS:

(1) The secretaries of the Cabinet for Families and Children and Cabinet for Health Services, or their designees, shall collaborate on the expansion of the Healthy Start in Child Care Program. The goals of the Healthy Start in Child Care program are:

- *(a) To train and educate child-care providers in health and safety;*
- *(b) Provide nutrition consultation to parents;*
- *(c) Increase awareness of methods for the prevention of communicable diseases in child-care settings; and*
- *(d) Provide information to parents of children who attend child care.*

(2) The Cabinet for Families and Children shall establish technical assistance positions dedicated to child care within the Kentucky child-care resource and referral agencies in order to offer technical assistance to child-care providers to upgrade quality in early child-care and education facilities.

Section 17. KRS 199.894 is amended to read as follows:

As used in KRS 199.892 to 199.896, unless the context otherwise requires:

(1) "Cabinet" means the Cabinet for Families and Children;

(2) "Secretary" means secretary for families and children;

(3) "*Child*~~[Day]~~-care center" means any child-care *center*~~[facility]~~ which provides full or part-time care, day or night, to at least seven (7) children who are not the children, grandchildren, nieces, nephews, or children in legal custody of the operator. "*Child*~~[Day]~~-care center" shall not include any child-care facility operated by a religious organization while religious services are being conducted, or a youth development agency. For the purposes of this section, "youth development agency" means a program with tax-exempt status under 26 U.S.C. sec. 501(c)(3), which operates continuously throughout the year as an outside-school-hours center for youth who are six (6) years of age or older, and for which there are no fee or scheduled-care arrangements with the parent or guardian of the youth served*;*

(4) "Department" means the Department for Community Based Services; and

(5) "Family child-care home" means a private home that provides full or part-time care day or night for six (6) or fewer children who are not the children, siblings, stepchildren, grandchildren, nieces, nephews, or children in legal custody of the provider.

Section 18. KRS 199.896 is amended to read as follows:

(1) No person, association, or organization shall conduct, operate, maintain, or advertise any *child*~~[day]~~-care center~~[or home]~~ without obtaining a license as provided in KRS 199.892 to 199.896.

(2) The secretary may promulgate administrative regulations pursuant to KRS Chapter 13A relating to license fees and may establish standards of care and service for *a child*~~[the day]~~-care center*, criteria for the denial of a license if criminal*

records indicate convictions that may impact the safety and security of children in care, and procedures for enforcement of penalties[~~; provided, however, any administrative regulations promulgated pursuant to KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense~~].

(3)[~~ If the day-care center does not meet the standards prescribed for licensing by the secretary, a provisional license may be issued and remain in effect for a period of six (6) months.~~

~~(4)~~] Each initial application for a license shall be made to the cabinet and shall be accompanied by a fee of not more than fifty dollars ($50) and shall[~~, excepting provisional licenses,~~] be renewable annually upon expiration and reapplication when accompanied by a fee of twenty-five dollars ($25). Regular licenses and renewals thereof shall expire one (1) year from their effective date.

(4)[~~(5)~~]No *child*[~~day~~]-care center shall be refused a license or have its license revoked for failure to meet standards set by the secretary until after the expiration of a period not to exceed six (6) months from the date of the first official notice that the standards have not been met. If, however, the cabinet has probable cause to believe that an immediate threat to the public health, safety, or welfare exists, the cabinet may take emergency action pursuant to KRS 13B.125. All administrative hearings conducted under authority of KRS 199.892 to 199.896 shall be conducted in accordance with KRS Chapter 13B.

(5) If, upon inspection or investigation, the inspector general finds that a child-care center licensed under this section has violated the administrative regulations, standards, or requirements of the cabinet, the inspector general shall issue a statement of deficiency to the center containing:

(a) A statement of fact;

(b) A statement of how an administrative regulation, standard, or requirement of the cabinet was violated; and

(c) The time frame, negotiated with the child-care center, within which a violation is to be corrected, except that a violation that poses an immediate threat to the health, safety, or welfare of children in the center shall be corrected in no event later than five (5) working days from the date of the statement of deficiency.

(6) The Cabinet for Families and Children, in consultation with the Cabinet for Health Services, Office of the Inspector General, shall establish by administrative regulations promulgated in accordance with KRS Chapter 13A an informal dispute resolution process containing at least two (2) separate levels of review through which a child-care provider may dispute licensure deficiencies that have an adverse effect on the child-care provider's license.

(7) A child-care center shall have the right to appeal to the Cabinet for Health Services under KRS Chapter 13B any action adverse to its license or the assessment of a civil penalty issued by the inspector general as the result of a violation contained in a statement of deficiency within twenty (20) days of the issuance of the action or assessment of the civil penalty. An appeal shall not act to stay the correction of a violation.

(8) In assessing the civil penalty to be levied against a child-care center for a violation contained in a statement of deficiency issued under this section, the inspector general or the inspector general's designee shall take into consideration the following factors:

(a) The gravity of the threat to the health, safety, or welfare of children posed by the violation;

(b) The number and type of previous violations of the child-care center;

(c) The reasonable diligence exercised by the child-care center and efforts to correct the violation; and

(d) The amount of assessment necessary to assure immediate and continued compliance.

(9) Upon a child-care center's failure to take action to correct a violation of the administrative regulations, standards, or requirements of the cabinet contained in a statement of deficiency, or at any time when the operation of a child-care center poses an immediate threat to the health, safety, or welfare of children in the center, and the child-care center continues to operate after the cabinet has taken emergency action to deny, suspend, or revoke its license, the cabinet or the cabinet's designee shall take at least one (1) of the following actions against the center:

(a) Institute proceedings to obtain an order compelling compliance with the administrative regulations, standards, and requirements of the cabinet;

(b) Institute injunctive proceedings in Circuit Court to terminate the operation of the center;

(c) Institute action to discontinue payment of child-care subsidies; or

(d) Suspend or revoke the license or impose other penalties provided by law.

(10)[~~(6)~~] Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of *child*[~~day~~]-care *center* license of the operator. Identifying information regarding children and their families shall remain confidential.

(11)[~~(7)~~] The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the *child*[~~day~~]-care center within the past year. All information distributed by the cabinet under this subsection shall include a statement indicating that the reports as provided under this subsection from the past five (5) years are available from the *child*[~~day~~]-care center upon the parent's, custodian's, guardian's, or other interested person's request.

(12)[~~(8)~~] All fees collected under the provisions of KRS 199.892 to 199.896 *for license and certification applications* shall

be paid into the State Treasury and credited to a special fund for the purpose of administering KRS 199.892 to 199.896 including the payment of expenses of and to the participants in child-care workshops. The funds collected are hereby appropriated for the use of the cabinet. The balance of the special fund shall lapse to the general fund at the end of each biennium.

(13)[~~(9)~~] Any advertisement for child-care services shall include the address of where the service is being provided.

(14)[~~(10)~~] All inspections of licensed and unlicensed ***child***[~~day~~]-care centers by the Cabinet for Families and Children and the Cabinet for Health Services shall be unannounced.

(15)[~~(11)~~] All employees and owners of a ***child***[~~day~~]-care center who provide care to children shall demonstrate within the first three (3) months of employment completion of at least a total of six (6) hours of orientation in the following areas:

(a) Basic health, safety, and sanitation;

(b) Recognizing and reporting child abuse; and

(c) Developmentally appropriate child-care practice.

(16)[~~(12)~~] All employees and owners of a ***child***[~~day~~]-care center who provide care to children shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(17)[~~(13)~~] The Cabinet for Families and Children shall make available either through the development or approval of a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection *(15)*[~~(11)~~] of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection *(15)*[~~(11)~~] of this section.

(18)[~~(14)~~] Child[~~ day~~]-care centers licensed pursuant to this section and family child-care homes certified pursuant to KRS 199.8982 shall not use corporal physical discipline, including the use of spanking, shaking, or paddling, as a means of punishment, discipline, behavior modification, or for any other reason. For the purposes of this section, "corporal physical discipline" means the deliberate infliction of physical pain and does not include spontaneous physical contact which is intended to protect a child from immediate danger.

(19)[~~(15)~~] Directors ***and employees*** of child[~~ day~~]-care centers ***in a position that involves supervisory or disciplinary power over a minor, or direct contact with a minor, shall submit to a criminal record check in accordance with Section 25 of this Act. The application shall be denied if the applicant has been found by the Cabinet for Families and Children or a court to have abused or neglected a child or has been convicted of a violent crime or sex crime as defined in Section 25 of this Act***[~~ shall not have been found by the cabinet or a court to have abused or neglected a child~~].

(20) A director or employee of a child-care center may be employed on a probationary status pending receipt of the criminal background check. Application for the criminal record of a probationary employee shall be made no later than the date probationary employment begins.

Section 19. KRS 199.8982 is amended to read as follows:

[~~(1) As used in this section, unless the context requires otherwise:~~

~~(a) "Cabinet" means the Cabinet for Families and Children;~~

~~(b) "Department" means the Department for Social Services; and~~

~~(c) "Family child-care home" means a private home which provides full or part-time care day or night for six (6) or fewer children who are not the children,~~ ~~***siblings, stepchildren,***~~ ~~grandchildren, nieces, nephews, or children in legal custody of the provider.~~]

(1)[~~(2)~~](a) The cabinet shall establish a family child-care home certification program which shall be administered by the department. A family child-care provider shall apply for certification of the provider's home if the provider is caring for four (4) to six (6) children unrelated to the provider. A family child-care provider caring for three (3) or fewer children may apply for certification of the provider's home at the discretion of the provider. Applicants for certification shall not have been found by the cabinet or a court to have abused or neglected a child, and shall meet the following minimum requirements:

1. Submit two (2) written character references;
2. Provide a written statement from a physician that the applicant is in good health;
3. Submit to a criminal record check ***in accordance with Section 25 of this Act. The application shall be denied if the applicant has been convicted of a violent crime or sex crime as defined in Section 25 of this Act***[~~as provided by KRS 17.165~~];
4. Provide smoke detectors, a telephone, an adequate water supply, sufficient lighting and space, and a safe environment in the residence in which care is provided;
5. Provide a copy of the results of a tuberculosis skin test for the applicant administered within thirty (30) days of the date of application for certification; and
6. Demonstrate completion of a total of at least six (6) hours of training in the following areas within three (3)

months of application for certification:

a. Basic health, safety, and sanitation;

b. Recognizing and reporting child abuse; and

c. Developmentally appropriate child-care practice.

(b) Initial applications for certification shall be made to the department and shall be accompanied by a ten dollar ($10) certification fee. The department shall issue a certificate of operation upon inspecting the family child-care home and determining the provider's compliance with the provisions of this section. The inspection shall be unannounced. A certificate of operation issued pursuant to this section shall not be transferable and shall be renewed every two (2) years for a fee of ten dollars ($10).

(c) A certified family child-care provider shall display the certificate of operation in a prominent place within the residence in which care is provided. The cabinet shall provide the certified family child-care provider with written information explaining the requirements for a family day-care provider and instructions on the method of reporting violations of the requirements which the provider shall distribute to parents.

(d) Upon request of any person, the cabinet shall provide information regarding the denial, revocation, suspension, or violation of any type of day-care license of the family child-care provider. Identifying information regarding children and their families shall remain confidential.

(e) The cabinet shall provide, upon request, public information regarding the inspections of and the plans of correction for the family child-care home within the past year. All information distributed by the cabinet under this paragraph shall include a statement indicating that the reports as provided under this paragraph from the past five (5) years are available from the family child-care home upon the parent's, custodian's, guardian's, or other interested person's request.

(f) The cabinet shall promulgate administrative regulations in accordance with KRS Chapter 13A which establish standards for the issuance, monitoring, release of information under this section and KRS 199.896 and 199.898, renewal, denial, revocation, and suspension of a certificate of operation for a family child-care home ***and establish criteria for the denial of certification if criminal records indicate convictions that may impact the safety and security of children in care***[~~; provided, however, any administrative regulations promulgated in accordance with KRS Chapter 13A shall prohibit the employment of persons convicted of any sexual offense~~]. A denial, suspension, or revocation of a certificate may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B. If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, the cabinet may take emergency action to suspend a certificate pursuant to KRS 13B.125. The cabinet shall promulgate administrative regulations to impose minimum staff-to-child ratios. The cabinet may promulgate administrative regulations relating to other requirements necessary to ensure minimum safety in family child-care homes. The cabinet shall develop and provide an "easy-to-read" guide containing the following information to a family child-care provider seeking certification of his home:

1. Certification requirements and procedures;

2. Information about available child-care training; and

3. Child-care food sponsoring organizations.

(2)[~~(3)~~]Family child-care providers shall annually demonstrate to the department completion of at least six (6) hours of training in child development.

(3)[~~(4)~~]The cabinet shall, either through the development of or approval of, make available a model training curriculum and training materials, including video instructional materials, to cover the areas specified in subsection (2)(a)6. of this section. The cabinet shall develop or approve the model training curriculum and training materials to cover the areas specified in subsection (2)(a)6. of this section.

Section 20. KRS 199.899 is amended to read as follows:

(1) The Cabinet for Families and Children shall conduct a market-rate survey at least biennially to ***set the minimum***[~~determine the~~] rates paid by the cabinet for child-care services receiving public funds in the Commonwealth. The market-rate survey shall:

(a) Survey all child-care programs in the Commonwealth licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982;

(b) Determine market rates; and

(c) Make public its findings.

(2)[~~By October 1, 1993, the cabinet shall report to the General Assembly on the feasibility of paying a higher rate for child-care programs which attain accreditation from a national organization that the cabinet determines has accreditation standards that contribute to high-quality child care.~~

~~(3)]~~ In counties containing no more than two (2) child-care programs of the same type regulated by the cabinet, the cabinet shall pay the rate charged by the program up to the maximum allowable market rate, set in accordance with federal regulations, paid to a program of the same type in that area development district.

(3) The Cabinet for Families and Children shall evaluate, at least annually, the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care.

Section 21. KRS 199.8992 is amended to read as follows:

(1) To the extent possible with available funds, the Cabinet for Families and Children shall develop through a system of contracts, a statewide network of community-based child-care resource and referral services. The network shall include one (1) resource and referral agency per area development district as designated by the cabinet. To avoid duplication of services, priority for receiving designation by the cabinet shall be given to existing child-care resource and referral organizations which are public or private, nonprofit, community-based agencies. Each resource and referral agency shall:

  (a) Maintain a uniform database in a format developed by the cabinet of all child-~~[day-]~~care providers licensed pursuant to KRS 199.896 or certified pursuant to KRS 199.8982 in the service area, including information on the availability of care;

  (b) Provide consumer education to families seeking child-~~[day-]~~care services;

  (c) Provide timely referrals of available child-~~[day-]~~care providers to families seeking child-~~[day-]~~care services;

  (d) Recruit child-~~[day-]~~care providers in areas where there is an identified need as identified pursuant to paragraph (f) of this subsection;

  (e) Coordinate, with the cabinet, training for child-~~[day-]~~care providers and provide technical assistance to employers, current and potential child-~~[day-]~~care providers, and the community at large;

  (f) Collect and analyze data on the supply of, and demand for, child-~~[day-]~~care in the community;

  (g) Stimulate employer involvement in improving the affordability, availability, safety, and quality of child care for their employees and for the community;

  (h) Provide written educational materials to parents and child-~~[day-]~~care providers;~~[and]~~

  (i) Not operate a child-~~[day-]~~care center on behalf of an employer or on their own unless no existing provider is willing or able to provide the service at the current market rate. This paragraph shall not apply to child care provided by a resource and referral agency to an employer prior to July 14, 1992***; and***

  (j) Form community early childhood councils in cooperation with family resource centers and other local organizations or agencies.

(2) To the extent possible with available funds, the cabinet shall award contracts in accordance with KRS Chapter 45A to:

  (a) Coordinate existing resource and referral services;

  (b) Expand resource and referral services to unserved areas; and

  (c) Improve services provided by the designated resources and referral agency.

(3) When awarding the contracts provided for in subsection (2) of this section, priority shall be given to agencies which demonstrate the ability to provide local matching funds in an amount equal to twenty-five percent (25%) of the total amount of the contract. Contracts shall be awarded for a minimum period of up to one (1) year. Start-up contracts may be awarded in up to four (4) area development districts per year until each area development district has one (1) designated child-care resource and referral agency. The awarding of a contract pursuant to this section shall not create a continuing obligation for the cabinet to fund a resource and referral agency. The cabinet shall require applicants to submit a plan for providing the services required by subsection (1) of this section.

Section 22. KRS 199.8994 is amended to read as follows:

(1) All child-day-care funds administered by the cabinet, including Title XX of the Social Security Act, shall be administered by the Cabinet for Families and Children to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served. To the extent permitted by federal law or regulations, requirements relating to application, eligibility, provider agreements, and payment for child-care services shall be the same regardless of the source of public funding.

(2) The cabinet shall, to the extent allowable under federal law or regulation and in a manner which is in the best interest of the clients to be served, develop a system which provides a single intake point in each county through which parents seeking public subsidies for child-care services can make application.

(3) The cabinet shall, subject to the extent funds are available, cooperate with the Cabinet for Health Services to fund ***and*** establish dedicated child-care licensing surveyor positions within the Division of Licensing and Regulation to conduct all the cabinet's child-care licensing activities. ***The cabinet shall have the authority to request the transfer of funds to establish these positions.*** Where possible, dedicated child-care surveyors shall have expertise or experience in child-care or early childhood education.

(4) The targeted ratio of dedicated child-care licensing surveyor positions shall be one (1) surveyor for each fifty (50) child-care facilities in order to allow for the provision of an expedient, constructive, and thorough licensing visit.

(5) The cabinet shall, in cooperation with the Division of Licensing and Regulation, Cabinet for Health Services, provide appropriate specialized training for child-care surveyors.

(6) (a) The cabinet shall evaluate ways to improve the monitoring of unregulated child-care providers that receive a public subsidy for child care, and promulgate administrative regulations in accordance with KRS Chapter 13A that establish minimum health and safety standards, limitations on the maximum number of children in care, training requirements for a child-care provider that receives a child-care subsidy administered by the cabinet, and criteria for the denial of subsidies if criminal records indicate convictions that impact the safety and security of children in care.

(b) If the cabinet has probable cause to believe that there is an immediate threat to the public health, safety, or welfare, it may take emergency action to deny a public subsidy for child-care services under KRS 13B.125.

Section 23. KRS 199.8996 is amended to read as follows:

The Cabinet for Families and Children shall prepare the following reports to the General Assembly on child-care programs, and shall make them available to the public:

(1) A quarterly report detailing the number of children and amounts of child-care subsidies provided in each area development district;

(2) A quarterly report on administrative expenses incurred in the operation of child-care subsidy programs;

(3) A quarterly report on disbursements of federal child-care block grant funds for training, resource and referral, and similar activities; and

(4) Beginning July 15, 1993, an annual report summarizing the average child-care subsidy activities per month in all Kentucky counties.

(5) The cabinet shall file an annual report on its evaluation of the adequacy of the child-care subsidy to enable low income families in need of child-care services to obtain child care with the Early Childhood Development Authority and the Legislative Research Commission.

(6) The cabinet shall file an annual report on the number of dedicated child-care licensing surveyor positions and the ratio of surveyors to child-care facilities with the Early Childhood Development Authority and the Legislative Research Commission.

Section 24. KRS 199.990 is amended to read as follows:

(1) Any person violating any of the provisions of KRS 199.380 to 199.400 shall be guilty of an offense, and upon conviction thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than twelve (12) months, or be both fined and imprisoned, in the discretion of the court.

(2) Any person who violates any of the provisions of KRS 199.430, 199.470, 199.473, 199.570 and 199.590 except subsection (2), or 199.640 to 199.670, or any rule or regulation under such sections the violation of which is made unlawful shall be fined not less than five hundred dollars ($500) nor more than two thousand dollars ($2,000) or imprisoned for not more than six (6) months, or both. Each day such violation continues shall constitute a separate offense.

(3) Any person who willfully violates any other of the provisions of KRS 199.420 to 199.670 or any rule or regulation thereunder, the violation of which is made unlawful under the terms of those sections, and for which no other penalty is prescribed in those sections or in subsection (1) of this section, or in any other applicable statute, shall be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned for not more than thirty (30) days, or both.

(4) Any ***violation of the regulations, standards, or requirements of the cabinet under***[~~ person who violates any of~~] the provisions of KRS 199.896 ***that poses an immediate threat to the health, safety, or welfare of any child served by the child-care center shall be subject to a civil penalty of no more than one thousand dollars ($1,000) for each occurrence. Treble penalties shall be assessed for two (2) or more violations within twelve (12) months. All money collected as a result of civil penalties assessed under the provisions of KRS 199.896 shall be paid into the State Treasury and credited to a special fund for the purpose of the Early Childhood Scholarship Program created in accordance with Section 13 of this Act. The balance of the fund shall not lapse to the general fund at the end of each biennium***.

(5) A person who commits a violation of the regulations, standards, or requirements of the cabinet under the provisions of Section 18 of this Act shall be fined not less than one thousand dollars ($1,000) or imprisoned for not more than twelve (12) months, or be fined and imprisoned, at the discretion of the court.

(6)[~~(5)~~]Any person who violates any of the provisions of KRS 199.590(2) shall be guilty of a Class D felony.

Section 25. KRS 17.165 is amended to read as follows:

(1) As used in this section, "sex crime" means a conviction or a plea of guilty for a violation or attempted violation of KRS

510.040 to 510.140, 529.020 to 529.050, 530.020, 530.065, 531.310, 531.320, and 531.340 to 531.370. Conviction for a violation or attempted violation of an offense committed outside the Commonwealth of Kentucky is a sex crime if such offense would have been a crime in Kentucky under one (1) of the above sections if committed in Kentucky.

(2) As used in this section, "violent offender" means any person who has been convicted of or pled guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(3) As used in this section, "violent crime" shall mean a conviction of or a plea of guilty to the commission of a capital offense, Class A felony, or Class B felony involving the death of the victim, or rape in the first degree or sodomy in the first degree of the victim or serious physical injury to a victim.

(4) No child-care center as defined in KRS 199.894 shall employ, in a position which involves supervisory or disciplinary power over a minor, ***or direct contact with a minor,*** any person who is a violent offender or has been convicted of a sex crime ~~[classified as a felony. Operators of child-care centers may employ persons convicted of sex crimes classified as a misdemeanor at their discretion]~~. Each child-care center shall request all conviction information for any applicant for employment from the Justice Cabinet ***or the Administrative Office of the Courts*** prior to employing the applicant.

(5) ***No child-care provider that is required to be certified under Section 19 of this Act or that receives a public child-care subsidy administered by the cabinet or an adult who resides on the premises of the child-care provider and has direct contact with a minor shall have been convicted of a violent crime, or a sex crime, or have been found by the Cabinet for Families and Children or a court to have abused or neglected a child.***

(6) Each application form, provided by the employer to the applicant, shall conspicuously state the following: "FOR THIS TYPE OF EMPLOYMENT, STATE LAW REQUIRES A CRIMINAL RECORD CHECK AS A CONDITION OF EMPLOYMENT."

(7)~~[(6)]~~Any request for records under subsection (4) of this section shall be on a form approved by the Justice Cabinet ***or the Administrative Office of the Courts***, and the cabinet may charge a fee to be paid by the applicant in an amount no greater than the actual cost of processing the request.

(8)~~[(7)]~~The provisions of this section shall apply to all applicants for initial employment in a position which involves supervisory or disciplinary power over a minor after July 15, 1988.

Section 26. KRS 17.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 17.320 to 17.340 shall be fined not less than fifty dollars ($50) nor more than five hundred dollars ($500).

(2) Any public official or employee who knowingly or intentionally makes, or causes to be made, a false return of information to the department shall be punished by confinement in jail for not more than ninety (90) days, by a fine not exceeding five hundred dollars ($500), or both.

(3) (a) Any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (5) of KRS 17.165*** may be liable for license ***or certification*** revocation and the imposition of a civil penalty of not less than five hundred dollars ($500) and not more than one thousand dollars ($1,000) to be imposed and collected by the Cabinet for Families and Children; and

(b) In addition to penalties listed in this subsection, any child-care center which violates subsection (4) of KRS 17.165 ***or child-care provider that violates subsection (5) of KRS 17.165*** shall be fined not less than five hundred dollars ($500) or more than one thousand dollars ($1,000).

Section 27. KRS 213.046 is amended to read as follows:

(1) A certificate of birth for each live birth which occurs in the Commonwealth shall be filed with the local registrar within ten (10) days after such birth and shall be registered if it has been completed and filed in accordance with this section.~~[A hearing risk certificate provided by the Commission for Children with Special Health Care Needs, with questions pertaining to hearing loss in newborn infants, shall accompany the certificate of birth for use pursuant to KRS 211.645 and 211.647.]~~ All certificates shall be typewritten. No certificate shall be held to be complete and correct that does not supply all items of information called for in this section and in KRS 213.051, or satisfactorily account for their omission except as provided in KRS 199.570(3). If a certificate of birth~~[or the hearing risk certificate]~~ is incomplete, the local registrar shall immediately notify the responsible person and require that person to supply the missing items, if that information can be obtained.

(2) When a birth occurs in an institution or en route thereto, the person in charge of the institution or that person's designated representative, shall obtain the personal data, prepare the certificate, secure the signatures required, and file the certificate as directed in subsection (1) of this section or as otherwise directed by the state registrar within the required ten (10) days. The physician or other person in attendance shall provide the medical information required for the certificate and certify to the fact of birth within ten (10) days after the birth. If the physician or other person in attendance does not certify to the fact of birth within the ten (10) day period, the person in charge of the institution shall complete and sign the certificate.

(3) When a birth occurs in a hospital or en route thereto to a woman who is unmarried, the person in charge of the hospital or

that person's designated representative shall immediately before or after the birth of a child, except when the mother or the alleged father is a minor:

(a) Meet with the mother prior to the release from the hospital;

(b) Attempt to ascertain whether the father of the child is available in the hospital, and, if so, to meet with him, if possible;

(c) Provide written materials and oral, audio, or video materials about paternity;

(d) Provide forms necessary to voluntarily establish paternity;

(e) Provide a written and an oral, audio, or video description of the rights and responsibilities, the alternatives to, and the legal consequences of acknowledging paternity;

(f) Provide written materials and information concerning genetic paternity testing;

(g) Provide an opportunity to speak by telephone or in person with staff who are trained to clarify information and answer questions about paternity establishment;

(h) If the parents wish to acknowledge paternity, require the voluntary acknowledgment of paternity obtained through the hospital-based program be signed by both parents and be authenticated by a notary public;

(i) Provide the unmarried mother, and, if possible, the father, with the affidavit of paternity form;

(j) Upon both the mother's and father's request, help the mother and father in completing the affidavit of paternity form;

(k) Upon both the mother's and father's request, transmit the affidavit of paternity to the local registrar in the county in which the birth occurred; and

(l) In the event that the mother or the alleged father is a minor, information set forth in this section shall be provided in accordance with Civil Rule 17.03 of the Kentucky Rules of Civil Procedure.

If the mother or the alleged father is a minor, the paternity determination shall be conducted pursuant to KRS Chapter 406.

(4) The voluntary acknowledgment-of-paternity forms designated by the Office of Vital Statistics shall be the only documents having the same weight and authority as a judgment of paternity.

(5) The Cabinet for Health Services shall:

(a) Provide to all public and private birthing hospitals in the state written materials and audio or video materials concerning paternity establishment forms necessary to voluntarily acknowledge paternity;

(b) Provide copies of a written description and an audio or video description of the rights and responsibilities of acknowledging paternity; and

(c) Provide staff training, guidance, and written instructions regarding voluntary acknowledgment of paternity as necessary to operate the hospital-based program.

(6) When a birth occurs outside an institution, the certificate shall be prepared and filed by one (1) of the following in the indicated order of priority:

(a) The physician in attendance at or immediately after the birth; or, in the absence of such a person,

(b) Any other person in attendance at or immediately after the birth; or, in the absence of such a person,

(c) The father, the mother, or in the absence of the father and the inability of the mother, the person in charge of the premises where the birth occurred or of the institution to which the child was admitted following the birth.

(7) No physician, midwife, or other attendant shall refuse to sign or delay the filing of a birth certificate.

(8) If a birth occurs on a moving conveyance within the United States and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, and the place where the child is first removed shall be considered the place of birth. If a birth occurs on a moving conveyance while in international waters or air space or in a foreign country or its air space and the child is first removed from the conveyance in the Commonwealth, the birth shall be registered in the Commonwealth, but the certificate shall show the actual place of birth insofar as can be determined.

(9) The following provisions shall apply if the mother was married at the time of either conception or birth or anytime between conception and birth:

(a) If there is no dispute as to paternity, the name of the husband shall be entered on the certificate as the father of the child. The surname of the child shall be any name chosen by the parents; however, if the parents are separated or divorced at the time of the child's birth, the choice of surname rests with the parent who has legal custody following birth.

(b) If the mother claims that the father of the child is not her husband and the husband agrees to such a claim and the putative father agrees to the statement, a three (3) way affidavit of paternity may be signed by the respective parties and duly notarized. The state registrar of vital statistics shall enter the name of a nonhusband on the birth certificate as the father and the surname of the child shall be any name chosen by the mother.

(c) If a question of paternity determination arises which is not resolved under paragraph (b) of this subsection, it shall be settled by the District Court.

(10) The following provisions shall apply if the mother was not married at the time of either conception or birth or between conception and birth or the marital relationship between the mother and her husband has been interrupted for more than ten (10) months prior to the birth of the child:

(a) The name of the father shall not be entered on the certificate of birth. The state registrar shall upon acknowledgment of paternity by the father and with consent of the mother pursuant to KRS 213.121, enter the father's name on the certificate. The surname of the child shall be any name chosen by the mother and father. If there is no agreement, the child's surname shall be determined by the parent with legal custody of the child.

(b) If an affidavit of paternity has been properly completed and the certificate of birth has been filed accordingly, any further modification of the birth certificate regarding the paternity of the child shall require an order from the District Court.

(c) In any case in which paternity of a child is determined by a court order, the name of the father and surname of the child shall be entered on the certificate of birth in accordance with the finding and order of the court.

(d) In all other cases, the surname of the child shall be any name chosen by the mother.

(11) If the father is not named on the certificate of birth, no other information about the father shall be entered on the certificate. In all cases, the maiden name of the gestational mother shall be entered on the certificate.

(12) Any child whose surname was restricted prior to July 13, 1990, shall be entitled to apply to the state registrar for an amendment of a birth certificate showing as the surname of the child, any surname chosen by the mother or parents as provided under this section.

(13) The birth certificate of a child born as a result of artificial insemination shall be completed in accordance with the provisions of this section.

(14) Each birth certificate filed under this section shall include all Social Security numbers that have been issued to the parents of the child.

(15) Either of the parents of the child, or other informant, shall attest to the accuracy of the personal data entered on the certificate in time to permit the filing of the certificate within ten (10) days prescribed in subsection (1) of this section.

Section 28. The following KRS sections are repealed:

199.8984 Child-Care Policy Council.

157.317 Development of statewide Early Childhood Education Program -- Kentucky Early Childhood Advisory Council.

Section 29. As used in subsection (1) of Section 1 of this Act, "early childhood development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session.

Section 30. This Act may be cited as the Early Childhood Development Act.

The Committee on Education reported **HB 292, HB 803, HB 884,** with Committee Substitute attached thereto, **HCR 114,** and **SB 229,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 292, AN ACT relating to public school transportation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 157 IS CREATED TO READ AS FOLLOWS:

(1) It is the intent of the General Assembly to facilitate opportunities for public school pupils participating in extracurricular activities to represent their schools and local school districts in educational programs and athletic competitions within the Commonwealth.

(2) An extracurricular activity transportation fund to be administered by the Department of Education is hereby established. The fund may receive state appropriations, gifts and grants from public and private sources, and federal funds.

(3) The fund shall provide matching moneys to local school districts to subsidize the cost of transporting pupils in grades nine (9) through twelve (12) to locations within the state. Grants from the fund shall be in an amount not to exceed one-half (1/2) of the total transportation cost of the activity, as submitted and certified by the superintendent of the local district to the commissioner of education or the commissioner's designee.

(4) The Kentucky Board of Education shall promulgate administrative regulations as may be needed in the administration of the fund and disbursement of moneys from the fund.

HB 803, AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.190 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise, "harassment" has the same meaning as the definition given in KRS 525.070.

(2) The behavior and discipline code of a school shall prohibit the harassment by any person of students, certified and classified employees, interscholastic sports officials, school volunteers, school visitors, and any other persons on school property or at a school-sponsored event.

(3) The code shall include penalties for a violation, but a person guilty of harassment on school property or at a school-sponsored event may also be subject to arrest, criminal prosecution, and penalty under KRS 525.070.

(4) Whenever a teacher or school administrator is functioning in his capacity as an employee of a board of education of a public school system, it shall be unlawful for any person to direct speech or conduct toward the teacher or school administrator when such person knows or should know that the speech or conduct will disrupt or interfere with normal school activities or will nullify or undermine the good order and discipline of the school.

Section 2. KRS 158.440 is amended to read as follows:

The General Assembly finds that:

(1) Every student ***and school employee*** should have access to a safe, secure, and orderly school that is conducive to ***student*** learning;

(2) All schools and school districts must have plans, policies, and procedures dealing with measures for assisting students who are at risk of academic failure or of engaging in disruptive and disorderly behavior; and

(3) State and local resources are needed to enlarge the capacities for research, effective programming, and program evaluation that lead to success in addressing safety and discipline within the schools.

Section 3. KRS 158.445 is amended to read as follows:

(1) Each local school shall begin an assessment of school safety and student discipline during the 1998-1999 school year including a review of the following:

  (a) Reports of school incidents relating to disruptive behaviors;

  (b) The school's behavior and discipline codes for clarity and appropriate notice to students and parents;

  (c) The school's hierarchy of responses to discipline problems and actual disciplinary outcomes;

  (d) Training needs for instructional staff in classroom management, student learning styles, and other specialized training to enhance teachers' capacity to engage students and minimize disruptive behavior;

  (e) The array of school services to students at risk of academic failure, dropping out, or truancy;

  (f) The engagement of parents at the earliest stages of problem behavior;

  (g) Training needs for students in anger reduction, conflict resolution, peer mediation, and other necessary skills;

  (h) Training needs of parents;

  (i) Existing school council policies relating to student discipline and student information;

  (j) ***Existing school council policies relating to the protection of students, school employees, and visitors from harassment as defined in Section 1 of this Act;***

  (k) The school's physical environment;

  (l)[~~(k)~~] The school's student supervision plan;

  (m)[~~(l)~~] Existing components of the school improvement plan or consolidated plan that focus on school safety and at-risk students, and the effectiveness of the components; and

  (n)[~~(m)~~] Other data deemed relevant by the school council or school administration.

A school that does not complete an assessment process shall not be eligible for funds under the state school safety grant program in 1999-2000 and subsequent years.

(2) By May 15, 1999, each local school district shall complete a district-level assessment of district-level data, resources, policies and procedures, and district-wide needs as identified from the individual school assessment process. The district shall engage local community agencies including law enforcement and the courts in the assessment process.

(3) As a result of the district assessment and analysis of data, resources, and needs, each board of education shall adopt a plan for immediate and long-term strategies to address school safety and discipline. The development of the plan shall involve at least one (1) representative from each school in the district as well as representatives from the community as a whole, including representatives from the local juvenile delinquency prevention council if a council exists in that community. The process of planning shall be determined locally depending to a large extent on the size and characteristics of the district.

(4) The district plan under subsection (3) of this section shall be the basis for any request for funds under the state school safety grant program for 1999-2000 and subsequent years. The district plan shall include the local code of acceptable behavior and discipline as required under KRS 158.148 and a description of instructional placement options for threatening or violent students.

Section 4. KRS 161.990 is amended to read as follows:

(1) Any person who violates any provisions of KRS 161.164 shall be guilty of a Class A misdemeanor. Any school board candidate or school board member who willfully violates any provision of KRS 161.164 shall also be disqualified from holding the office of school board member.

(2) Any teacher or employee of a district who willfully violates any provision of KRS 161.164 shall be ineligible for employment in the common schools for a period of five (5) years.

(3) Any person who violates any of the provisions of ***subsection (4) of Section 1 of this Act***[~~KRS 161.190~~] shall be guilty of a Class A misdemeanor.

(4) Any teacher who violates any of the provisions of subsection (2) of KRS 161.210 shall be subject to a fine of fifty dollars ($50) and upon conviction his certificate shall be revoked.

(5) A violation of any of the provisions of KRS 161.661 or 161.690 is a misdemeanor and upon conviction shall be punished by a fine of not more than five thousand dollars ($5,000).

HB 884, AN ACT relating to education paperwork requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) At the request of a local board of education or a school council, a local school district superintendent shall submit a request to the Kentucky Board of Education for a waiver from a reporting requirement established by a Kentucky Revised Statute that requires the paperwork to be submitted to the Kentucky Board of Education.

(2) Upon a finding of good cause for the waiver, the Kentucky Board of Education may grant the waiver.

(3) The Kentucky Board of Education shall not waive statutory paperwork or reporting requirements necessary under federal law or relating to health, safety, or civil rights.

The Committee Substitute No. 1 to **HB 884** is as follows:

HB 884, AN ACT relating to education paperwork requirements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) At the request of a local board of education or a school council, a local school district superintendent shall submit a request to the Kentucky Board of Education for a waiver from a reporting requirement established by a Kentucky Revised Statute that requires the paperwork to be submitted to the Kentucky Board of Education or the Department of Education.

(2) Upon a finding of good cause for the waiver, the Kentucky Board of Education may grant the waiver.

(3) The Kentucky Board of Education shall not waive statutory paperwork or reporting requirements necessary under federal law or relating to health, safety, or civil rights.

HCR 114, A CONCURRENT RESOLUTION requesting the Interim Joint Committee on Education to conduct a study of the salaries of classified employees in local school districts.

WHEREAS, classified employees make significant contributions to the well-being of pupils, the school environment, and the improvement and progress of schools across the Commonwealth; and

WHEREAS, over 45,000 persons are employed as classified staff in local school districts across the state in a variety of positions in athletics, fiscal management, food services, health, instruction, maintenance and operations, secretarial and clerical, security and law enforcement, student services, and transportation; and

WHEREAS, classified employees contract with local school boards and are paid for services as salaried or hourly salaried employees; and

WHEREAS, many classified employees have reported that their salaries have not kept pace with the rising cost of living and are inadequate and noncompetitive;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Interim Joint Committee on Education shall conduct a study of the compensation of classified employees to determine its adequacy and make recommendations regarding the propriety of a statewide salary schedule, cost of living adjustments, and the financial impact of these measures on the state and local school districts. The study report shall be submitted to the Legislative Research Commission by August 31, 2001.

Section 2. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

SB 229, AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.163 is amended to read as follows:

The board of each local school district, and the governing body of each private and parochial school or school district, shall establish an earthquake ***and tornado*** emergency procedure system in every public or private school building in its jurisdiction having a capacity of fifty (50) or more students, or having more than one (1) classroom. The earthquake ***and tornado*** emergency procedure system shall include, but not be limited to, all of the following:

(1) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs. ***A drop procedure and safe area evacuation practice shall be held at least twice during each school year.***

(2) A drop procedure. As used in this section, "drop procedure" means an activity by which each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows.~~[A drop procedure practice shall be held at least twice during each school year.]~~

(3) ***A safe area. As used in this section, "safe area" means a designated enclosed area with no windows.***

(4) Protective measures to be taken before, during, and following an earthquake ***or tornado***.

(5)~~[(4)]~~A program to ensure that the students and the certificated and classified staff are aware of, and properly trained in, the earthquake ***and tornado*** emergency procedure system.

The House Committee Substitute No. 1 to **SB 229** is as follows:

SB 229, AN ACT relating to school safety.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 158.163 is amended to read as follows:

The board of each local school district, and the governing body of each private and parochial school or school district, shall establish an earthquake ***and tornado*** emergency procedure system in every public or private school building in its jurisdiction having a capacity of fifty (50) or more students, or having more than one (1) classroom. The earthquake ***and tornado*** emergency procedure system shall include, but not be limited to, all of the following:

(1) A school building disaster plan, ready for implementation at any time, for maintaining the safety and care of students and staffs. ***A drop procedure and safe area evacuation practice shall be held at least twice during each school year.***

(2) A drop procedure. As used in this section, "drop procedure" means an activity by which each student and staff member takes cover under a table or desk, dropping to his or her knees, with the head protected by the arms, and the back to the windows.~~[A drop procedure practice shall be held at least twice during each school year.]~~

(3) ***A safe area. As used in this section, "safe area" means a designated space including an enclosed area with no windows, a basement or the lowest floor using the interior hallway or rooms, or taking shelter under sturdy furniture.***

(4) Protective measures to be taken before, during, and following an earthquake ***or tornado***.

(5)~~[(4)]~~A program to ensure that the students and the certificated and classified staff are aware of, and properly trained in, the earthquake ***and tornado*** emergency procedure system.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Licensing and Occupations: **HB 857, HB 912, HB 944, SB 152, SB 215**

Natural Resources and Environment: **HB 957, HB 990, HB 899, HB 898**

Education: **HB 956**

Calendar

HB 636, HB 742, HB 829, SB 190, HB 649, HB 709, HB 757, HB 765, HB 875, HB 526, HB 678, HB 685, HB 734, HB 794, HB 722, HB 758, HB 778, HB 787, and **SB 139** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 382, HB 408, HB 585, HB 668, HB 681, HB 689, HB 691, HB 740, HB 750, HB 777, HCR 108, HB 649, HB 678, HB 742, HB 757, HB 778, HB 829, SB 139,** and **SB 190** have been posted for passage in the Orders of the Day for March 6, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 57, HB 713, HB 393, HB 563, HB 721**

Report On Enrolled Bills

The Committee on Enrollment reported that **SJR 17, HB 175, HB 203, HB 277, HB 417, HB 436, HB 456, HB 466, HB 477, HJR 9, HJR 15, HJR 39, HJR 70, HJR 72, HJR 76, HCR 35,** and **HCR 37** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -10:50 a.m.)

Orders of the Day

Representative Cherry moved that the rules be suspended to act upon a Resolution. Agreed.

Representative Cherry moved the adoption of the following **HR 149**:

HR 149, A RESOLUTION in honor of Representative Charles R. Geveden upon the occasion of his 60th birthday.

WHEREAS, Representative Charles R. Geveden was born on March 3, 1940, a native of Ballard County, Kentucky; and

WHEREAS, the "Gentleman from Ballard 1" has graciously followed in the footsteps of his late father, Noah Geveden, who served in this honorable body from 1961-1962 and of his great uncle J.W. Geveden, who served in 1919-1920; and

WHEREAS, he is a 1962 graduate of Vanderbilt University and received his Juris Doctorate from the University of Louisville; and

WHEREAS, he is the proud husband of Patricia Geveden and proud father of his children Cindy Praska, Ron Geveden, Kim Geveden, and Chuck Geveden. He is also the proud grandfather of five grandchildren who keep him constantly on his toes; and

WHEREAS, over the past twelve years of his diligent service to this honorable body, he has driven from the outermost legislative district of this Commonwealth; and

WHEREAS, he is entering that wonderful phase of his life where he can just sit back in the "river bottoms of Wickliffe" and goose hunt or join Tommy, Ralph, and Tom for a morning round at the Ballard County Country Club;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky:

Section 1. That this honorable body is proud to recognize Representative Charles R. Geveden upon the occasion of his

60th birthday, this 3rd day of March, 2000, and wishes him continued success with his future endeavors.

Section 2. That when the House of Representatives adjourns this day, March 3, 2000, it does so in honor of Representative Charles R. Geveden's sixtieth birthday.

Section 3. That the Clerk of the House of Representatives is hereby directed to transmit a copy of this Resolution to Representative Charles R. Geveden, P.O. Box 518, Wickliffe, Kentucky 42087.

There being no objection **HR 149** was adopted.

Representative Cherry moved the adoption of the following **Legislative Citation No. 84**.

The House of Representatives of the Commonwealth of Kentucky hereby offers its sincerest congratulations to Representative Charles R. Geveden in recognition of his 60th Birthday. In celebration of this memorable event, the members of this august body join with Representative Mike Cherry in honoring our highly-regarded and well-travelled colleague, the Respected Gentleman from Ballard #1, who has reached, on this auspicious occasion, the age worthy of his renowned sagacious nature. To the respected Gentleman from Ballard, we hereby extend best wishes on this special day of celebration. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 84 was adopted without objection.

Representative Stumbo moved that the rules be suspended to grant floor privileges and to act upon Legislative Citations. Agreed.

Representative Burch moved the adoption of the following **Legislative Citation No. 87**.

The House of Representatives of the Commonwealth of Kentucky hereby extends a warm welcome to Shelby Brooke Smith the daughter of Scott and Cindy Smith Secretary for the Health and Welfare Committee whose miraculous arrival at 7:43 p.m., on December 9, 1999, at Frankfort Regional Medical Center in Frankfort, Kentucky, weighing seven pounds and three and three-fourths ounces, was met with endless love, joy and gratitude. The entire membership welcomes this new Kentucky citizen and joins with Representative Tom Burch in extending very best wishes on this memorable occasion. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 87 was adopted without objection.

Representative Burch moved the adoption of the following **Legislative Citation No. 88**.

The House of Representatives of the Commonwealth of Kentucky hereby extends a warm welcome to Brianna Faith Adcock the daughter of Jennifer Adcock and the granddaughter of Gina Rigsby Secretary for the Health and Welfare Committee whose miraculous arrival at 6:39 p.m., on July 1, 1999, at Frankfort Regional Medical Center in Frankfort, Kentucky, weighing six pounds and five and one-half ounces, was met with endless love, joy and gratitude. The entire membership welcomes this new Kentucky citizen and joins with Representative Tom Burch in extending very best wishes on this memorable occasion. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 88 was adopted without objection.

Representative Tapp moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed. Representative Tapp moved the adoption of the following **Legislative Citation No. 83**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes Spencer County Middle School as an esteemed participant of the World Wise Classroom. Sponsored by the Peace Corps, this outstanding program brings returning volunteers into the classrooms to share with students the wealth of their experiences living in other countries around the world. Inasmuch as Spencer County Middle School has displayed a dedicated commitment to its students by taking part in the World Wise Classroom, which is part of the World Wise Schools program and designed to provide an overview of the myriad cultures throughout the world by providing teachers with national resources with which to give students an in-depth education about the multitude of nations around the globe; therefore, this honorable body is pleased to join Representative Gary Tapp in commending this remarkable educational institution for participating in this most noteworthy program; for demonstrating an exemplary interest in the democratic process by attending this day's activities of the 2000 Regular Session of the Kentucky General Assembly; and in extending best wishes for continued success and good fortune. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 83 was adopted without objection.

Representative R. Adams moved the adoption of the following **Legislative Citation No. 86**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and honors John Colmar III for five years of remarkable service to the Commonwealth of Kentucky and the Legislative Research Commission. The members of this prestigious body are pleased to join Representative Royce Adams in expressing deepest appreciation to John Colmar for serving the agency and the members of the Kentucky General Assembly in a professional and tireless manner; and in extending best wishes to this talented and dedicated individual, known as the Master of the both the 35mm lens and the LRC baby pool, as he travels to Cincinnati to assume a challenging new position and in expressing the hope for his continued success and good fortune. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 86 was adopted without objection.

HB 539 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Horlander moved that **HB 539** be passed.

On the roll call the vote was: **Yeas 87, Nays 2**. (See March 3 , 2000 roll call on **HB 539** - Appendix.)

HB 539 was passed and the title agreed to.

Representative Horlander moved that the vote by which **HB 539** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 663, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 663**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 663**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 663**. Agreed.

Representative Haydon moved that **HB 663**, by way of Committee Substitute as amended, be passed.

Representative Treesh moved that **HB 663** be laid upon the Clerk's Desk.

Due to the lack of a second the motion that **HB 663** be laid on the Clerk's Desk, received no action.

On the roll call the vote was: **Yeas 66, Nays 24**. (See March 3, 2000 roll call on **HB 663** - Appendix.)

HB 663, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 663**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 44 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that the motion that **SB 44** be taken from the Orders of the Day be withdrawn.

HB 619 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HB 619** be passed.

On the roll call the vote was: **Yeas 86, Nays 1**. (See March 3 , 2000 roll call on **HB 619** - Appendix.)

HB 619 was passed and the title agreed to.

Representative Treesh moved that the vote by which **HB 619** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 44, with House Committee Substitute attached thereto, taken from the Orders of the Day and placed upon its passage. Agreed by a majority of members elected.

Representative Cave moved the adoption of the House Committee Substitute to **SB 44**. Agreed.

Representative Cave moved that **SB 44**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 3, 2000 roll call on **SB 44** - Appendix.)

SB 44, by way of House Committee Substitute, was passed and the title agreed to.

Representative Cave moved that the vote by which **SB 44**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 570 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved that **HB 570** be passed.

On the roll call the vote was: **Yeas 77, Nays 18**. (See March 3 , 2000 roll call on **HB 570** - Appendix.)

HB 570 was passed and the title agreed to.

Representative Johns moved that the vote by which **HB 570** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 59 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **SB 59** be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 3 , 2000 roll call on **SB 59** - Appendix.)

SB 59 was passed and the title agreed to.

Representative Graham moved that the vote by which **SB 59** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 698 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Graham moved that **HB 698** be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 3 , 2000 roll call on **HB 698** - Appendix.)

HB 698 was passed and the title agreed to.

Representative Graham moved that the vote by which **HB 698** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 780 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Yonts moved that **HB 780** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 3 , 2000 roll call on **HB 780** - Appendix.)

HB 780 was passed and the title agreed to.

Representative Yonts moved that the vote by which **HB 780** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 118, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Hoffman moved the adoption of the Committee Substitute to **HB 118**. Agreed.

Representative Hoffman moved that **HB 118**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 3, 2000 roll call on **HB 118** - Appendix.)

HB 118, by way of Committee Substitute, was passed and the title agreed to.

Representative Hoffman moved that the vote by which **HB 118**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 620 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Webb moved that **HB 620** be passed.

On the roll call the vote was: **Yeas 98, Nays 0**. (See March 3 , 2000 roll call on **HB 620** - Appendix.)

HB 620 was passed and the title agreed to.

Representative Webb moved that the vote by which **HB 620** was passed be reconsidered and said motion be placed on the table. Agreed.

HJR 101 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Crimm moved that **HJR 101** be adopted.

On the roll call the vote was: **Yeas 92, Nays 2**. (See March 3, 2000 roll call on **HJR 101** - Appendix.)

HJR 101 was adopted.

Representative Crimm moved that the vote by which **HJR 101** was adopted be reconsidered and said motion be placed on the table. Agreed.

HR 130 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HR 130** be adopted.

On the roll call the vote was: **Yeas 92, Nays 0**. (See March 3, 2000 roll call on **HR 130** - Appendix.)

HR 130 was adopted.

Representative Collins moved that the vote by which **HR 130** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 327, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative D. Butler moved the adoption of Committee Amendment No. 1 to **HB 327**. Agreed.

Representative D. Butler moved that **HB 327**, as amended, be passed.

On the roll call the vote was: **Yeas 75, Nays 15**. (See March 3, 2000 roll call on **HB 327** - Appendix.)

HB 327, as amended, was passed and the title agreed to.

Representative D. Butler moved that the vote by which **HB 327**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 814, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ausmus moved that **HB 814** be passed.

On the roll call the vote was: **Yeas 95, Nays 3**. (See March 3 , 2000 roll call on **HB 814** - Appendix.)

HB 814 was passed and the title agreed to.

Representative Stumbo moved that the vote by which **HB 814** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the three day posting requirement on **HB 992** be waived. Agreed.

Representative Stumbo moved that **HB 1010** be reassigned to the Committee on Labor and Industry. Agreed.

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 4:00 p.m., March 6, 2000. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 892, HB 824, HB 823, HB 911, HB 258, HB 178, HB 286, HB 182, HB 442**

Local Government: **HB 893, HB 909, HB 916, HB 924, HB 931, HB 938, HB 995, SB 171**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 587**

Natural Resources and Environment: **HB 756, HB 1013, HJR 143**

Banking and Insurance: **HB 972, HB 997, HB 998, HB 1016**

Education: **HB 975, HB 984, HCR 127, HJR 141**

Seniors, Military Affairs, and Public Safety: **HB 896, SJR 76**

Transportation: **HB 736, HB 759, HB 791, HB 818, HB 870, HB 914, HB 915, HJR 128, HJR 131**

Health and Welfare: **HB 843**

Labor and Industry: **HB 992, HB 718, HB 743, HB 815, HB 831, HB 930, HB 993, HB 1010**

Motions, Petitions, and Communications (Continued)

Representative Westrom moved the adoption of the following **Legislative Citation No. 85**.

The House of Representatives of the Commonwealth of Kentucky hereby recognizes and welcomes the Bluegrass Area Family & Consumer Sciences Agents from the University of Kentucky Cooperative Extension Service, for demonstrating exemplary interest in the democratic process by visiting the Capitol in order to meet with legislators and to view the daily actions of the Kentucky legislature. The members of this honorable body are pleased to join Representative Susan Westrom in expressing appreciation to these outstanding citizens for taking an active role in the legislative process and upon attending this day's activities in the Chambers of the House of Representatives during the 2000 Regular Session of the Kentucky General Assembly. Done in Frankfort, this third day of March, in the year two thousand.

Legislative Citation No. 85 was adopted without objection.

Representative Thomas moved that **HB 1003** be withdrawn. Agreed.

Representative Jordan moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Jordan moved that she be recorded as voting "yea" on **HJR 101**. Agreed.

Representative Crenshaw moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crenshaw moved that he be recorded as voting "yea" on **HB 327**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 539**. Agreed.

Representative Sims moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Sims moved that she be recorded as voting "nay" on **HB 327**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 118**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "yea" on **HJR 101**. Agreed.

Representative Graham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Graham moved that he be recorded as voting "abstain" on **HB 663**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that his vote be changed from "nay" to "yea" on **HB 619**. Agreed.

Representative Wilkey moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Wilkey moved that he be recorded as voting "yea" on **HB 539**. Agreed.

Representative Kerr moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Kerr moved that he be recorded as voting "yea" on **HB 539**. Agreed.

Representative Colter moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Colter moved that her vote be changed from "nay" to "yea" on **HJR 101**. Agreed.

Representative Thomas moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Thomas moved that he be recorded as voting "yea" on **HB 539, HB 619,** and **SB 44**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 318**, by Representative Reinhardt:

On page 4, after line 13, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS 78.520 TO 78.852 IS CREATED TO READ AS FOLLOWS:

All retired hazardous members in an elected city or county office on the effective date of this Act shall contribute to the County Employees Retirement System unless they elect not to participate within sixty (60) days of the effective date of this Act. Members who begin participating under the provisions of this section may purchase credit for service in the elected city or county office between July 15, 1998, and the effective date of this Act, by paying to the system one hundred percent (100%) of the cost of the service.".

Floor Amendment No. 1 to the Committee Substitute to **HB 598**, by Representative Nunn:

On page 6, line 20, after "***drugs.***" by adding "***The policies of health insurance coverage procured under subsection (2) of this section shall require the policyholder to pay the same co-pay for the purchase of the same quantity of drugs regardless of whether the purchase is made through the mail order option provided for in this subsection or at a retail pharmacy.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 598**, by Representative Damron:

On page 6, line 20, after "***drugs.***" and by inserting "***As a condition of participating in the program authorized under this subsection, the pharmacy shall demonstrate to the secretary of the Finance and Administration Cabinet compliance with all requirements of KRS Chapters 315, 217, and 218A and the administrative regulations pursuant thereto.***".

Floor Amendment No. 1 to **HB 734**, by Representative Damron:

On page 1, line 21, after "costs" by deleting the words "***for court facilities renovated or constructed after July 15, 2000***" and inserting "***. Beginning with court facility construction or renovation projects authorized by the 2000 Regular Session of the General Assembly***" in lieu thereof;

On page 1, line 25, after "***allowance***" by deleting the words "***, and, if there is no debt, four percent (4%) annually of capital cost***";

On page 7, line 11, by deleting the sentence "***All investment earnings shall be credited to the fund.***".

Floor Amendment No. 3 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, Thomas Jefferson, the author of the Virginia Statute of Religious Freedom in 1779, proclaimed:

> "Whereas Almighty God has created the mind free, so that all attempts to influence it by temporal punishments or burdens, or by civil incapacitations, tend only to beget habits of hypocrisy and meanness, and are a departure from the plan of the Holy Author of our religion, who, being Lord both of body and mind, yet chose not to propagate it by coercions on either, as was his almighty power to do; that the impious presumption of legislators and rulers, civil as well as ecclesiastical, who, being themselves but fallible and uninspired men, have assumed dominion over the faith of others, setting up their own opinions and modes of thinking as the only true and infallible, and as such endeavoring to impose them on others. . . . Be it enacted by the General Assembly that no man shall be compelled to frequent or support any religious worship, place or ministry whatsoever, nor shall be enforced, restrained, molested, or burdened in his body or his goods, nor shall otherwise suffer on account of his religious opinions or belief. . . ."; and"

Floor Amendment No. 4 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, John Leland, a Baptist clergyman who was influential in the passage of the Virginia Statute of Religious Freedom, stated in a 1791 pamphlet:

> "Every man must give an account of himself to God, and therefore every man ought to be at liberty to serve God in that way that he can best reconcile it to his conscience. If government can answer for individuals at the day of judgment, let men be controlled by it in religious matters; otherwise let men be free . . . [R]eligion is a matter between God and individuals, religious opinions of men not being the objects of civil government nor in any way under its control. Government has no more to do with religious opinions of men than it has with the principles of the mathematics. Let every man speak freely without fear -- maintain the principles that he believes -- worship according to his own faith, either one God, three Gods, no God, or twenty Gods; and let government protect him in doing, i.e., see that he meets with no personal abuse or loss of property for his religious opinions. . . . It is not supposable that any established religion contains the whole truth and nothing but the truth; but supposing it did, which established religion has got it: All bigots contend for it -- each society cries out, 'The temple of the Lord are we.' If all stand upon equal footing, being equally protected by law as citizens (not as saints) and one prevails over another by cool investigation and fair argument, then truth gains honor, and men more firmly believe it than if it was made an essential article of salvation by law. Truth disdains the aid of law for its defense -- it will stand upon its own merits"; and"

Floor Amendment No. 5 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, James Madison stated in his "Remonstrance of 1785" against a proposal by the General Assembly of Virginia establishing teachers of Christian religion in the schools:

> "We remonstrate against the said bill: 1. Because we hold it for a fundamental and undeniable truth, "That religion or the duty which we owe to our Creator and the manner of discharging it, can be directed only by reason and

> conviction, not by force and violence. . . ." It is the duty of every man to render to the Creator such homage, and such only, as he believes acceptable to him. 3. Because it is proper to take alarm at the first experiment on our liberties. Who does not see that the same authority which can establish Christianity, in exclusion of all other religions, may establish with the same ease any particular sect of Christians, in the exclusion of all other sects? That the same authority which can force a citizen to contribute three pence only of his property for support of any one establishment may force him to conform to any other establishment in all cases whatsoever? While we assert for ourselves a freedom to embrace, to profess, and to observe the religion which we believe to be of divine origin, we cannot deny an equal freedom to those whose minds have not yet yielded to the evidence which convinced us. . . . such a government will be best supported by protecting every citizen in the enjoyment of his religion with the same equal hand which protects his person and his property; by neither invading the equal rights of any sect, nor suffering any sect to invade those of another. . . . Because the proposed establishment is a departure from that generous policy, which, offering asylum to the persecuted and oppressed of every nation and religion, promised a luster to our country and an accession to the number of its citizens. . . . Distant as it may be, in its present form, from the inquisition, it differs from it only in degree. The one is the first step, the other is the last in the career of intolerance"; and"

Floor Amendment No. 6 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, page 9, between lines 6 and 7, by inserting:

" Section 2. The Finance and Administration Cabinet sell the graven images in the Capitol rotunda, the statues of Abraham Lincoln, Henry Clay, Jefferson Davis, Ephraim McDowell, and Alben Barkley, and deposit the proceeds of the sale in an interest-bearing account which is dedicated solely to the payment of legal fees incurred in defense of unconstitutional legislation enacted by the General Assembly."; and

By renumbering the subsequent sections accordingly.

Floor Amendment No. 7 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"Whereas, Abigail Adams, in a March 31, 1776 letter to John Adams wrote:

> "I have sometimes been ready to think that the passion for Liberty cannot be Eaquelly Strong in the Breasts of those who have been accustomed to deprive their fellow Creatures of theirs. Of this I am certain that it is not founded upon that generous and christian principal of doing unto others as we would that others should do unto us. "I long to hear that you have declared an independancy - and by the way in the new Code of Laws which I suppose it will be necessary for you to make I desire you would Remember the Ladies, and be more generous and favourable to them than your ancestors. Do not put such unlimited power into the hands of the Husbands. Remember all Men would be tyrants if they could. If perticuliar care and attention is not paid to the Laidies we are determined to foment a Rebelion, and will not hold ourselves bound by any Laws in which we have no voice, or Representation. "That your Sex are Naturally Tyrannical is a Truth so thoroughly established as to admit of no dispute, but such of you as wish to be happy willingly give up the harsh title of Master for the more tender and endearing one of Friend. Why then, not put it out of the power of the vicious and the Lawless to use us with cruelty and indignity with impunity. Men of Sense in all Ages abhor those customs which treat us only as the vassals of your Sex. Regard us then as Beings placed by providence under your protection and in immitation of the Supreem Being make use of that power only for our happiness"; and"

Floor Amendment No. 8 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, on May 15, 1818, James Madison wrote to Mordecai M. Noah, a prominent Jewish diplomat, playwright, and journalist, as follows:

> "Sir, - I have received your letter of the 6th, with the eloquent discourse delivered at the consecration of the Jewish Synagogue. Having ever regarded the freedom of religious opinions and worship as equally belonging to every sect, and the secure enjoyment of it as the best human provision for bringing all either into the same way of thinking, or into the mutual charity which is the only substitute, I observe with pleasure the view you give of the spirit in which your sect partake of the blessings offered by our Government and laws"; and"

Floor Amendment No. 9 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, as Thomas Jefferson wrote in his autobiography, in reference to the Virginia Act for Religious Freedom:

> "Where the preamble declares, that coercion is a departure from the plan of the holy author of our religion, an amendment was proposed by inserting "Jesus Christ," so that it would read "A departure from the plan of Jesus Christ, the holy author of our religion;" the insertion was rejected by the great majority, in proof that they meant to comprehend within the mantle of its protection, the Jew and the Gentile, the Christian and Mohammedan, the Hindoo and Infidel of every denomination"; and"

Floor Amendment No. 10 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, James Madison, perhaps the greatest supporter for separation of church and state, and whom many refer to as the father of the Constitution, in his letter to Edward Livingston, dated 10 July 1822, stated:

> "And I have no doubt that every new example will succeed, as every past one has done, in shewing that religion & Govt will both exist in greater purity, the less they are mixed together"; and"

Floor Amendment No. 11 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, President George Washington, in a September 9, 1790 letter to the Hebrew Congregation of Newport, Rhode Island, set forth the American principle of religious freedom as follows:

> "Gentlemen, While I receive with much satisfaction, your Address replete with expressions of affection and esteem, I rejoice in the opportunity of assuring you, that I shall always retain a grateful remembrance of the cordial welcome I experienced in my visit to Newport, from all classes of citizens.
>
> "The reflection on the days of difficulty and danger which are past, is rendered the more sweet, from a consciousness that they are succeeded by days of uncommon prosperity and security. If we have wisdom to make the best use of the advantages with which we are now favored, we cannot fail, under the just administration of a good government, to become a great and a happy people. "The citizens of the United States of America, have a right to applaud themselves for having given to mankind examples of an enlarged and liberal policy - a policy worthy of imitation. All possess alike liberty of conscience, and immunities of citizenship. It is now no more than toleration is spoken of, as if it was by the indulgence of one class of people, that another enjoyed the exercise of their inherent natural rights. For happily the government of the United States, which gives to bigotry no sanction - to persecution no assistance, requires only that they who live under its protection should demean themselves as good citizens, in giving it on all occasions their effectual support.
>
> "It would be inconsistent with the frankness of my character not to avow, that I am pleased with your favorable opinion of my administration, and fervent wishes for my felicity. May the Children of the Stock of Abraham, who dwell in this land, continue to merit and enjoy the goodwill of the other inhabitants; while every one shall sit in safety under his own vine and fig tree, and there shall be none to make him afraid. May the Father of all mercies scatter light and not darkness in our paths, and make us all in our several vocations useful here, and in his own due time and way everlastingly happy"; and"

Floor Amendment No. 12 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, Section 5 of the Kentucky Constitution sets forth the Right of Religious Freedom as follows:

> "No preference shall ever be given by law to any religious sect, society or denomination; nor to any particular creed, mode of worship or system of ecclesiastical polity; nor shall any person be compelled to attend any place of worship, to contribute to the erection or maintenance of any such place, or to the salary or support of any minister of religion; nor shall any man be compelled to send his child to any school to which he may be conscientiously opposed; and the civil rights, privileges or capacities of no person shall be taken away, or in anywise diminished or enlarged, on account of his belief or disbelief of any religious tenet, dogma or teaching. No human authority shall, in any case whatever, control or interfere with the rights of conscience"; and"

Floor Amendment No. 13 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting:

"WHEREAS, James Madison, in an August, 1820 letter to Jacob De la Motta, a leader in building a Savannah, Georgia synagogue, stated:

> "Sir, - I have received your letter of the 7th instant, with the Discourse delivered at the Consecration of the Hebrew Synagogue at Savannah, for which you will please to accept my thanks.
>
> "The history of the Jews must forever be interesting. The modern part of it is, at the same time, so little generally known, that every ray of light on the subject has its value.
>
> "Among the features peculiar to the political system of the United States, is the perfect equality of rights which it secures to every religious sect. And it is particularly pleasing to observe in the good citizenship of such as have been most distrusted and oppressed elsewhere a happy illustration of the safety and success of this experiment of a just and benignant policy. Equal laws, protecting equal rights, are found, as they ought to be presumed, the best guarantee of loyalty and love of country; as well as best calculated to cherish that mutual respect and good will among citizens of every religious denomination which are necessary to social harmony, and most favorable to the advancedment of truth. The account you give of the Jews of your congregation brings them fully within the scope of these observations"; and"

Floor Amendment No. 14 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 1, following the first "WHEREAS" clause, by inserting;

"WHEREAS, Noah Webster, in his "Sketches of American Policy" of 1785, stated:

> "The American (states') constitutions are the most liberal in this particular (ecclesiastical policy) of any on earth; and yet some of them have retained some badges of bigotry. A profession of the Christian religion is necessary to the states to entitle a man to office. In some states, it is requisite to subscribe (to) certain articles of faith. These requisitions are the effect of the same abominable prejudices that have enslaved the human mind in all countries. . . . If there are any means of promoting a millennial state of society, the only means are a general diffusion of knowledge and a free unlimited indulgence given to religious persuasions, without distinction and without preference. . . . The American states have gone far in assisting the progress of truth; but they have stopped short of perfection. They ought to have given every honest citizen an equal right to enjoy his religion and an equal title to all civil emoluments without obliging him to tell his religion. Every interference of the civil power in regulating opinion is an impious attempt to take the business of the Deity out of His own hands; and every preference given to any religious denomination is so far slavery and bigotry"; and"

Floor Amendment No. 3 to the Committee Substitute to **HB 611**, by Representative Napier:

On page 13, line 15, delete "*and*"; and

On page 13, line 18, after "*year*" insert "*; and*

5. No member of a local tobacco assistance board, and no spouse, parent, sibling, child, stepchild, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of a member of a local tobacco assistance board shall be eligible for any funds".

Floor Amendment No. 1 to **HB 292**, by Representative Marzian:

On page 1, line 19 after "*fund.*" by inserting "*The board shall ensure that districts receiving funds meet the requirements of Title IX of the Education Amendments of 1972, Pub. L. 92-318, as amended by Section 3 of Pub. L. 93-568, 88 Stat. 1855.*".

Floor Amendment No. 9 Title to **HB 1**, by Representative Stumbo:

On page 1, by amending the title to read as follows:

"AN ACT relating to solid waste."

Floor Amendment No. 1 to **HB 689**, by Representative Alexander:

On page 1, line 5, by deleting "*and*";

On page 1, line 6, after "*KRS 65.210 to 65.300,*" by inserting "*and any organization that receives dues from local school*

board members,";

On page 1, line 10 after "***KRS 65.210 to 65.300***" by inserting "***and any organization that receives dues from local school board members,***".

Floor Amendment No. 1 to **HB 712**, by Representative Treesh:

On page 14, after line 7, by inserting the following:

"SECTION 9. A NEW SECTION OF KRS 6.601 TO 6.849 IS CREATED TO READ AS FOLLOWS:

A member of the General Assembly shall not use any state property for the purpose of soliciting or securing funds for:

(1) Any individual candidate or slate of candidates for nomination or election to public office;

(2) Any political party; or

(3) Any committee formed in support of or controlled by a political party.

Violation of this section is ethical misconduct.".

Floor Amendment No. 1 to the Committee Substitute to **HB 599**, by Representative Childers:

On page 1, line 2, by deleting lines 2 through 17 in their entirety; and

On page 1 and 2, after the enacting clause, by deleting Section 1 in its entirety; and

On page 1, after the enacting clause, by inserting the following:

"SECTION . A NEW SECTION OF KRS CHAPTER 350 IS CREATED TO READ AS FOLLOWS:

(1) If a permittee or operator has been issued a notice or order directing abatement of a violation on the basis of an imminent danger to health and safety of the public or significant imminent environmental harm, and the notice or order requires access to property for which the permittee or operator does not have the legal right of entry necessary in order to abate that violation, and the owner or legal occupant of that property has refused access, an easement of necessity is recognized on behalf of the permittee or operator for the limited purpose of abating that violation.

(2) If a violation other than one described in subsection (1) cannot be abated because the permittee or operator responsible for abatement of the violation has been denied access to the land necessary to allow abatement of the violation, the cabinet shall terminate the notice of noncompliance or cessation order issued for the violation, if the following conditions are met:

(a) Prior to terminating a notice of noncompliance or cessation order under this subsection, and within thirty (30) days of a request by a permittee or operator to terminate a violation based on a lack of access, the cabinet shall verify the denial of access and advise the surface owners of record and the legal occupants of the affected land of the consequences of refusing to allow access to the property for the purpose of enabling abatement of the violation; and

(b) The cabinet shall explain the consequences by certified mail, return receipt requested, and shall make a good faith effort to notify all owners of interest and legal occupants verbally, that:

1. Refusal to allow access to the property will result in termination of the violation as uncorrectable;

2. If there is damage that occurs to public or private property due to the uncorrected violation condition on the property, that the property owner may also be responsible under law for any property damage to private or public property that may result from the unreclaimed condition; and

3. While the landowner may seek damages or injunctive relief in an action against the permittee or operator, the refusal to grant access in order to allow abatement of the violation shall result in the state terminating the requirement that the permittee or operator undertake work necessary for abatement of the violation, and that while penalties may be assessed, the performance bond shall not be forfeited on the basis of the violation.

(3) The cabinet shall not terminate any notice of noncompliance or cessation order under this section if the cabinet determines that the denial of access necessary to abate the violation has been procured through collusion between the permittee or operator and the landowner or legal occupant of the affected land who is refusing to allow the necessary access. "Collusion," for the purpose of this section, includes any agreement, understanding, or contract by which the landowner refuses access to the property in return for any consideration, whether involving money or otherwise. Any act of collusion shall subject the permittee or operator to penalties under this chapter for willful and knowing refusal to correct the violation.

(4) No noncompliance or cessation order may be terminated under this section where there is any common ownership or control between the permittee or operator and the landowner or legal occupant. No noncompliance or cessation order may be terminated under this section where there is any other legal relationship between the permittee or operator and

the landowner or legal occupant, except where a court of competent jurisdiction has determined that the legal relationship does not provide for a right of access.

(5) Where a violation may impact public or private property other than land for which access has been denied, the cabinet shall direct abatement measures to be taken by the permittee or operator to prevent damage to those lands for which access has not been denied.

(6) Termination of a notice of noncompliance or cessation order under this section shall not affect the assessment of a civil penalty for the violation. Nothing in this section shall affect any person's right for damages or injunctive relief."

Floor Amendment No. 6 to the Committee Substitute to **HB 691**, by Representative Bratcher:

On page 2, after line 25, insert a new Section 3 to read as follows:

"Section 3. KRS 189.030 is amended to read as follows:

(1) Lights, when required on a vehicle shall be illuminated*:*

(a) During the period from one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise*;*~~[,]~~

(b) During any period when the windshield wipers on the motor vehicle are in use; and

(c) ***During all***~~[at such]~~ other times ~~[as]~~ atmospheric conditions render visibility as low as or lower than is ordinarily the case during that period.

(2) Provisions as to distances that lights must be visible refer to visibility under ordinary atmospheric conditions.

(3)~~[(2)]~~Cities may by ordinance designate certain well-lighted streets or parts of the streets as being sufficiently illuminated during certain periods as to make lights unnecessary. In this case subsection (1) shall not apply to vehicles parked in those streets during such periods.".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 59:	Representative Yonts
HB 316:	Representative Heleringer
HB 364:	Representative Bather
HB 663:	Representative Crenshaw
HB 714:	Representative Westrom
HB 732:	Representative Yonts
HB 814:	Representatives Colter, Heleringer, Richards
HB 826:	Representatives Bather, Marzian, Reinhardt, Stewart
HB 878:	Representative Reinhardt
HB 1010:	Representative Heleringer

Announcements

The following meetings were announced:

Administrative Regulations Review Subcommittee, March 6, 2000, 2:00 p.m., Room 149

Judiciary, March 6, 2000, upon adjournment, Room 129

Labor and Industry, March 6, 2000, 1 hour upon adjournment

Labor and Industry, March 8, 2000, at regular time

Women's Caucus, March 3, 2000, upon adjournment, Pro Tems Office

Adjournment

Representative Stumbo moved that the House adjourn until 4:00 p.m., March 6, 2000.

The motion that the House adjourn until 4:00 p.m., March 6, 2000, was adopted by voice vote.

MARCH 6, 2000

FORTY-FIRST LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Doctor Calvin Hays, McKee Reformed Church, McKee.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present.

Representative Ballard moved that the reading of the Journal of March 3, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills and Resolution:

Health and Welfare: **SB 227**

Licensing and Occupations: **SB 247**

State Government: **SB 248**

Transportation: **SB 147, SJR 69**

Calendar

HB 811, SB 110, HB 583, HB 719, HB 749, HB 292, HB 803, HB 884, HCR 114, and **SB 229** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees

The Committee on Rules reported that **HB 452, HB 805, HB 806, HCR 82, HB 526, HB 709, HB 722, HB 765, HB 875, HB 100, HB 488, HB 593, HB 599, HB 611, HB 706, HB 292, HB 583, HB 719, HB 749, HB 803, HB 811, HB 884, HCR 114, SB 110,** and **SB 229** have been posted for passage in the Orders of the Day for March 7, 2000.

Senate Message

Announcing passage of **SB 218** and **HB 377**. (Time: 4:30 p.m.)

Message in regard to **HB 314**: The Senate has passed **HB 314** with Senate Floor Amendment and respectfully requests concurrence of this Honorable Body.

Orders of the Day

HB 268, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of Floor Amendment No. 1 to **HB 268**. Agreed.

Representative Damron moved that **HB 268**, as amended, be passed.

On the roll call the vote was: **Yeas 87, Nays 9**. (See March 6, 2000 roll call on **HB 268** - Appendix.)

HB 268, as amended, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 268**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **SB 59** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -4:45 p.m.)

Orders of the Day (Continued)

HB 598, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Marzian moved the adoption of the Committee Substitute No. 1 to **HB 598**. Agreed.

Representative Damron moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 598**. Agreed.

Representative Marzian moved that **HB 598**, by way of Committee Substitute as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 598**.

Representative Cornett moved that **HB 598** be laid on the Clerk's Desk.

On the roll call the vote was: **Yeas 42, Nays 52**. (See March 6, 2000 roll call on the motion that **HB 598** be laid on the Clerk's Desk-Appendix)

The motion that **HB 598** be laid on the Clerk's Desk was defeated.

Representative Nunn moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 598**.

On the roll call the vote was: **Yeas 86, Nays 13**. (See March 6, 2000 roll call on the motion to adopt Floor Amendment No. 1 to the Committee Substitute to **HB 598**-Appendix)

Floor Amendment No. 1 to the Committee Substitute to **HB 598** was adopted.

Representative Marzian moved that **HB 598**, by way of Committee Substitute as amended, be passed.

The Speaker Pro Tem assumed the Chair.

The Speaker resumed the Chair.

On the roll call the vote was: **Yeas 43, Nays 54**. (See March 6, 2000 roll call on **HB 598** - Appendix.)

HB 598, by way of Committee Substitute as amended, was defeated.

Report On Enrolled Bills (Continued)

HB 466, HB 477, HJR 9, HJR 15, HJR 39, HJR 70, HJR 72, HJR 76, HCR 35, and **HCR 37** delivered to the Senate and signed by the President. Delivered to the Governor on March 6, 2000, at 4:29 p.m.

Orders of the Day (Continued)

SB 14 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative P. Clark moved that **SB 14** be passed.

On the roll call the vote was: **Yeas 81, Nays 16.** (See March 6 , 2000 roll call on **SB 14** - Appendix.)

SB 14 was passed and the title agreed to.

Representative P. Clark moved that the vote by which **SB 14** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 318, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Report On Enrolled Bills (Continued)

The Committee on Enrollment reported that **HB 377** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -6:10 p.m.)

Orders of the Day (Continued)

Representative Feeley moved the adoption of Floor Amendment No. 1 to **HB 318**. Agreed.

Representative Feeley moved that **HB 318**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 1.** (See March 6, 2000 roll call on **HB 318** - Appendix.)

HB 318, as amended, was passed and the title agreed to.

Representative Feeley moved that the vote by which **HB 318**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 585, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved that **HB 585**, with Committee Amendment attached thereto, be placed back in the Orders of the Day and retain it's position. Agreed.

HB 382, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stacy moved the adoption of the Committee Substitute to **HB 382**. Agreed.

Representative Feeley moved that the rules be suspended to consider Floor Amendment No. 1 to the Committee Substitute to **HB 382**. Agreed.

On the roll call the vote was: **Yeas 88, Nays 7.** (See March 6, 2000 roll call on the motion to consider Floor Amendment No. 1 to the Committee Substitute to **HB 382**-Appendix)

The motion to consider Floor Amendment No. 1 to the Committee Substitute to **HB 382** was adopted.

Representative Feeley moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 382**. Agreed.

Representative Stacy moved that **HB 382**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 3.** (See March 6, 2000 roll call on **HB 382** - Appendix.)

HB 382, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Stacy moved that the vote by which **HB 382**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 681 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Lindsay moved that **HB 681** be passed.

On the roll call the vote was: **Yeas 94, Nays 2.** (See March 6 , 2000 roll call on **HB 681** - Appendix.)

HB 681 was passed and the title agreed to.

Representative Lindsay moved that the vote by which **HB 681** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 649 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved that **HB 649** be passed.

On the roll call the vote was: **Yeas 89, Nays 9.** (See March 6 , 2000 roll call on **HB 649** - Appendix.)

HB 649 was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 649** was passed be reconsidered and said motion be placed on the table. Agreed.

SB 139, with House Committee Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative R. Adams moved the adoption of House Committee Amendment No. 2 to **SB 139**. Agreed.

Representative Thomas moved that **SB 139**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0.** (See March 6, 2000 roll call on **SB 139** - Appendix.)

SB 139, as amended, was passed and the title agreed to.

Representative Thomas moved that the vote by which **SB 139**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 778 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved that **HB 778** be passed.

On the roll call the vote was: **Yeas 86, Nays 9.** (See March 6 , 2000 roll call on **HB 778** - Appendix.)

HB 778 was passed and the title agreed to.

Representative Thomas moved that the vote by which **HB 778** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 678 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Bratcher moved that **HB 678** be passed.

On the roll call the vote was: **Yeas 97, Nays 2.** (See March 6 , 2000 roll call on **HB 678** - Appendix.)

HB 678 was passed and the title agreed to.

Representative Bratcher moved that the vote by which **HB 678** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 829 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved that **HB 829** be passed.

On the roll call the vote was: **Yeas 98, Nays 0.** (See March 6 , 2000 roll call on **HB 829** - Appendix.)

HB 829 was passed and the title agreed to.

Representative Johns moved that the vote by which **HB 829** was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 7, 2000. Agreed.

Representative Stumbo moved that **HB 903** be reassigned to the Committee on Local Government. Agreed.

Representative Stumbo moved that **HB 986** be reassigned to the Committee on Transportation. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 437** and **HB 996** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Introduction of Resolutions

HR 150, by Representatives Westrom, Webb, Wayne, Alexander, Rader, Johns, Adkins, Reinhardt, Sims, Colter, Jenkins, Marzian, Stein, Jordan, C. Belcher, Palumbo, and Ausmus: A RESOLUTION urging the creation of a Special Trust Fund for the purpose of enhancing professional development of Spouse Abuse Center and Rape Crisis Center staff.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills and Resolutions have been posted for Committee consideration:

Appropriations and Revenue: **HB 577, HB 635, HB 739, HB 807, HB 813, HB 923, HB 159, HB 57, HB 181, HB 221, HB 267, HB 271, HB 278, HB 305, HB 388, HB 502, HB 576, HJR 83, HJR 84, HJR 85, SB 192, HB 213, HB 392**

Local Government: **SB 73, SB 74, SB 75, SB 130, HB 865, HB 782, HB 877, HB 889, HB 925, HB 961**

Tourism, Development, and Energy: **HB 897, HB 982**

Licensing and Occupations: **HB 881**

Elections, Constitutional Amendments, and Intergovernmental Affairs: **HB 808, HB 866**

Education: **SB 203, SB 221, SB 265, SB 240**

State Government: **HB 950, HB 977, SB 233, HCR 116, HB 799, HB 827, HB 871, HB 894, HJR 142**

Judiciary: **HB 291, HB 533, HB 919, HB 920, SB 3, SB 36, SB 65, HB 816, HB 839**

Health and Welfare: **SCR 39, SB 98, SB 100, SB 174, SB 186, SB 212, SB 111, SB 51, HB 980, HB 1012, HB 297**

The Clerk announced that the following Bills have been withdrawn from Committee consideration:

Education: **HB 622, HB 883, HB 548**

Motions, Petitions, and Communications (Continued)

Representative Gooch moved the adoption of the following **Legislative Citation No. 89.**

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in memory and honor of Malcolm Gibson and expresses deepest sympathy to all those who share in the loss of this distinguished Kentucky citizen, the cherished husband of the late Claudia Gibson; beloved father of Anne Conrad and Mack Gibson; and adoring grandfather of Suzanne Kuester, John Conrad, Sarah Gibson and two great-grandchildren. A renowned trainer and showman in the Quarter horse industry, this esteemed gentleman also conducted livestock and other auctions in Kentucky and surrounding states and enjoyed pursuing his interests in trail riding. A devoted member of the Slover Baptist Church, Mr. Gibson will long be remembered for the honor and integrity with which he lived his life and for the many contributions he made to both his profession and his community. The members of this honorable body join with Representative Jim Gooch, Jr., in adjourning on this day in loving memory of Malcom Gibson, who will long be remembered by all those who were touched by his remarkable compassion and generous spirit. Done in Frankfort, this sixth day of March, in the two thousand.

Legislative Citation No. 89 was adopted without objection.

Representative Gooch moved the adoption of the following **Legislative Citation No. 90**.

It is the intent of the House of Representatives of the Commonwealth of Kentucky to adjourn this legislative day in memory of Ernest Combs and in offering its deepest sentiments of sympathy to the Combs Family and to all those who share in the loss of this esteemed citizen. The cherished husband of Mary Ann Combs; beloved father of four children and adoring grandfather of seven grandchildren and nine great-grandchildren, this esteemed gentleman was a retired truck driver, past president of the Harvest Daze organization and vice-president of the Poole Lions Club. Recently honored for his invaluable contributions to the community and to the Poole Volunteer Fire Department where he served as Fire Chief and played an instrumental role in the formation of the Webster County Firefighters Association, Mr. Combs was given a fireman's Medal of Honor by both the Webster County and Henderson County Judge Executives. In addition, he was an avid and accomplished bowler who was a member of the State Bowling Association and was elected to the Kentucky Bowlers Hall of Fame in 1995. Mr. Combs will long be remembered for the honor and integrity with which he lived his life and for the untiring enthusiasm he exhibited while continually working towards the betterment of his community. The esteemed members of this honorable body join with Representative Jim Gooch, Jr., in remembering Ernest Combs today with profound regret and in extending sincere and heartfelt condolences to his loving family and friends. Done in Frankfort, this sixth day of March, in the two thousand.

Legislative Citation No. 90 was adopted without objection.

Representative Gooch moved the adoption of the following **Legislative Citation No. 91**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Eugene Myers and offers its sincerest condolences to the Myers Family and to all those who share in the loss of this distinguished Kentucky citizen. The cherished husband of Norma Hulsey Myers; beloved father of Paulette Easley, Kim Alsbrooks and Allan Wayne Myers; admired brother of Irene Babb and Ellis Myers and adoring grandfather of Brandon Dean Lamberth, this esteemed gentleman was an honorable Veteran of the United States Army, a member of VFW Post #5484, the American Legion and was a Kentucky Colonel. A devoted member of the Baptist faith, Mr. Myers will long be remembered for the honor and integrity with which he lived his life and for the untiring enthusiasm he exhibited while continually working towards the betterment of his community. The esteemed members of this honorable body join with Representative Jim Gooch, Jr., in honoring the memory of this highly-regarded Kentucky citizen for the contributions his presence lent to his family, his community and to this Commonwealth. Done in Frankfort, this sixth day of March, in the two thousand.

Legislative Citation No. 91 was adopted without objection.

Representative Stumbo moved that Floor Amendment No. 8 to **HB 1** be withdrawn. Agreed.

Representative Stein moved that House Floor Amendment No. 6 to the House Committee Substitute to **SJR 57** be withdrawn. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Yonts moved that his vote be changed from "nay" to "yea" on **HB 681**. Agreed.

Representative Webb moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Webb moved that she be recorded as voting "yea" on **HB 678** and **HB 829**. Agreed.

Representative Reinhardt moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Reinhardt moved that he be recorded as voting "yea" on **HB 268**. Agreed.

Representative Miller moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Miller moved that his vote be changed from "yea" to "nay" on **HB 598**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that he be recorded as voting "yea" on **HB 829**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 1 to **HB 598**. Agreed.

Representative Gray moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Gray moved that his vote be changed from "yea" to "nay" on Floor Amendment No. 1 to **HB 598**. Agreed.

Representative Feeley moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Feeley moved that he be recorded as voting "yea" on **HB 681**. Agreed.

Representative Buckingham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Buckingham moved that his vote be changed from "nay" to "yea" on **HB 681**. Agreed.

Representative Baugh moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Baugh moved that his vote be changed from "yea" to "nay" on **HB 663**. Agreed.

Representative Ballard moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ballard moved that he be recorded as voting "yea" on **HB 814**. Agreed.

Representative Ausmus moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Ausmus moved that he be recorded as voting "yea" on **HB 619**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to the Committee Substitute to **HB 382**, by Representative Feeley:

On page 1, line 16, after "***receive.***" by inserting "***The school principal or the principal's designee shall be responsible for providing this information to parents or guardians of children who are involved in the fundraising activity in the school.***".

Floor Amendment No. 15 to the House Committee Substitute to **SJR 57**, by Representative Geveden:

On page 1, between the last and the next-to-last line on page 1, by inserting the following:

"WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship...May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and figtree, and there shall be none to make him afraid"; and".

Floor Amendment No. 1 to **HB 713**, by Representative Ballard:

On page 1, line 6 after the word "score" by inserting "***, if applicable,***" and after the word "Any" by bracketing and striking through "Kentucky"; and

On page 1, line 7 by bracketing and striking through "Kentucky"; and

On page 1, line 15, after the word "score" by inserting "***, if applicable,***"; and

On page 1, line 23, after the word "score" by inserting "***, if applicable,***"; and

On page 2, line 5, after the word "score" by inserting "***, if applicable,***"; and

On page 2, line 16, after the word "score" by inserting "***, if applicable,***"; and

On page 2, line 18, after the words "only if" by inserting "***a test or rating is required for the classification,***"; and

On page 2, line 19, by inserting a comma "***,***" after "score"; and

On page 2, line 22, by deleting "***Any***" and inserting in lieu thereof "***The application of any***"; and

On page 2, line 26, after "***government shall***" by inserting "***, upon written request to the Personnel Cabinet,***"; and by deleting "***granted preference as follows:***", and inserting in lieu thereof "***clearly identified as qualified for veteran's preference***

permitted under subsections (1) to (5) and (7) of this section when transmitted to the applicable state agency for employment consideration."; and

On page 2, by deleting line 27 in its entirety; and

On page 3, by deleting lines 1 through 3 in their entirety; and

On page 3, line 4, by deleting "***(b)***"; and

On page 3, line 5, by deleting the word "***granted***" and inserting in lieu thereof " ***offered***".

Floor Amendment No. 4 to the Committee Substitute to **HB 296**, by Representative Vincent:

On page 29, after line 27, insert:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS Chapters 600 to 645, the inherent contempt power of the court shall not be diminished."; and

On page 30, line 1, delete "18" and insert in lieu thereof "19".

Floor Amendment No. 16 to the House Committee Substitute to **SJR 57**, by Representative Stein:

On page 9, between lines 6 and 7, by inserting:

"Section 2. The Finance and Administration Cabinet shall sell the graven images in the Capitol rotunda, the statues of Abraham Lincoln, Henry Clay, Jefferson Davis, Ephraim McDowell, and Alben Barkley, and deposit the proceeds of the sale in an interest-bearing account which is dedicated solely to the payment of legal fees incurred in defense of unconstitutional legislation enacted by the General Assembly."; and

By renumbering the Subsequent sections accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 805**, by Representative Gooch:

On page 2, line 2, after the period "***.***", by inserting "***However, no company qualifying for the credit as of the effective date of this Act with a base year calculation as provided under subsection (4)(a) of this section may create an affiliate, subsidiary, or corporation that would qualify for a base year of zero.***";

On page 4, line 19, by deleting "***March 15***" and inserting in lieu thereof "***July 15***".

Floor Amendment No. 5 to **HB 296**, by Representative Vincent:

On page 26, between lines 11 and 12, insert:

"SECTION 16. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS Chapters 600 to 645, the inherent contempt power of the court shall not be diminished."; and

On page 26, line 12, delete "16" and insert in lieu thereof "17".

Floor Amendment No. 4 to the Committee Substitute to **HB 611**, by Representative Alexander:

On page 10, line 22, after "***(4)***" insert "***Except as provided in Section 12 of this Act,*** ";

On page 12, line 21, after "***(6)***" insert "***Except as provided in Section 12 of this Act,*** ;

On page 14, line 3, after "***(3)*** " insert "***Except as provided in Section 12 of this Act,*** ";

On page 16, between lines 20 and 21, insert the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of any county that is projected to receive less than thirty-five thousand dollars ($35,000) per biennium in combined funds under Sections 8 and 9 of this Act may oversee the county account created in those sections in lieu of establishing a local tobacco assistance board.

(2) The legislative body of any county that oversees the county account under this section shall expend funds in the account only for public safety, economic development projects, or recreational facilities."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 5 to the Committee Substitute to **HB 611**, by Representative Alexander:

On page 10, line 22, after "*(4)*" insert "***Except as provided in Section 12 of this Act,***";

On page 12, line 21, after "*(6)*" insert "***Except as provided in Section 12 of this Act,***";

On page 14, line 3, after "*(3)* " insert "***Except as provided in Section 12 of this Act,***";

On page 16, between lines 20 and 21, insert the following:

"SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The legislative body of any county that is projected to receive less than thirty-five thousand dollars ($35,000) per biennium in combined funds under Sections 8 and 9 of this Act may oversee the county account created in those sections in lieu of establishing a local tobacco assistance board.

(2) The legislative body of any county that oversees the county account under this section shall expend funds in the account only for public safety or economic development projects."; and

Renumber subsequent sections accordingly.

Floor Amendment No. 6 to the Committee Substitute to **HB 611**, by Representative Nunn:

By deleting all of the bill following the enacting clause, and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 6 of this Act, unless the context requires otherwise:

(1) "Board" means the Rural Development Board created by Section 2 of this Act;

(2) "Fund" means the rural development fund established by an Act of the 2000 Regular Session;

(3) "Subcommittee" means the Rural Development Oversight Committee created by Section 5 of this Act; and

(4) "Council" means the rural development advisory council authorized by Section 6 of this Act.

SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The Rural Development Board is created as a political subdivision of the Commonwealth to perform essential governmental and public functions by administering funds to provide economic assistance to the agriculture community of the Commonwealth. The board shall be a public agency within the meaning of KRS 61.805, KRS 61.870, and other applicable statutes.

(2) The board's highest priority for distributing funds shall be to tobacco farmers and tobacco-impacted communities most adversely affected by the loss of tobacco income, as determined by a formula using tobacco income as a percentage of total personal income.

(3) The board shall consist of twenty (20) members as follows:

(a) Three (3) voting members or their designees, as follows:

1. The Governor of the Commonwealth of Kentucky, who shall serve as chair;

2. The Commissioner of the Kentucky Department of Agriculture, who shall serve as vice chair and shall serve as chair in the absence of the Governor; and

3. The secretary of the Cabinet for Economic Development;

(b) Twelve (12) voting members appointed by the Governor, who shall be geographically distributed throughout the state and subject to confirmation by the House and Senate as provided in KRS 11.160(2). The members shall be as follows:

1. One (1) representative of the Kentucky Farm Bureau;

2. One (1) representative of the Kentucky Chamber of Commerce, who shall be an agribusiness person;

3. One (1) representative of the Kentucky League of Cities;

4. One (1) representative of the Kentucky Association of Counties;

5. One (1) attorney with farm experience and familiarity with agricultural policy;

6. One (1) agricultural lender; and

7. Six (6) active farmers; and

(c) Five (5) ex officio, nonvoting members of the General Assembly, as follows:

1. Two (2) members of the Senate, one (1) appointed by the President of the Senate and one (1) appointed by the Minority Leader of the Senate; and

2. Three (3) members of the House of Representatives, two (2) appointed by the Speaker of the House and one (1) appointed by the Minority Leader of the House.

(4) The members appointed under subsection (3)(b) 1. to 4. of this section shall be chosen from a list of three (3) nominees submitted to the Governor by each of the respective organizations.

(5) The majority of the voting members shall be active farmers.

(6) Members of the board shall be reimbursed for expenses incurred in the performance of their duties.

(7) Except as provided in paragraphs (a) to (d) of this subsection, the terms of the members appointed by the Governor shall be for four (4) years and until their successors are appointed and confirmed. A vacancy on the board shall be filled for the remainder of the unexpired term in the same manner as the original appointment. Members may be reappointed. The initial appointments shall be for staggered terms, as follows:

- *(a) Three (3) members shall be appointed for one (1) year;*
- *(b) Three (3) members shall be appointed for two (2) years;*
- *(c) Three (3) members shall be appointed for three (3) years; and*
- *(d) Three (3) members shall be appointed for four (4) years.*

(8) The Governor shall convene the first meeting of the board by July 1, 2000, and the board shall create committees, including, but not limited to, committees on:

- *(a) Access to Capital;*
- *(b) Environmental Cost Share;*
- *(c) Marketing and Entrepreneurship; and*
- *(d) Technology, Infrastructure, and Training.*

(9) The board shall meet quarterly, or at the call of the chair or a majority of the voting members.

(10) A quorum of the board shall consist of eight (8) voting members. A majority of the voting members present may act upon matters before the board.

(11) The board shall be attached to the Governor's Office for administrative purposes.

SECTION 3. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The board's duties shall include, but not be limited to:

- *(a) Working with other governmental agencies to maximize the financial and economic impact that the programs implemented by the board will have on the agriculture community in the Commonwealth;*
- *(b) Promulgating administrative regulations relating to carrying out the purposes of Sections 1 to 6 of this Act;*
- *(c) Hiring a director to carry out the will of the board;*
- *(d) Ensuring the necessary mechanisms are in place for the committees created by Section 2 of this Act to function effectively;*
- *(e) Contracting with other persons or entities if necessary to effectuate the board's purposes and functions;*
- *(f) Enacting bylaws concerning the conduct of the board's business and other administrative procedures as the board deems necessary;*
- *(g) Administering the fund;*
- *(h) Providing at least quarterly reports to the Rural Development Oversight Committee created by Section 5 of this Act. These reports shall contain detailed information relating to each proposed project that is being recommended by the board; and*
- *(i) Submitting an annual written report to the Governor, the Commissioner of Agriculture, the Rural Development Oversight Committee, and the Legislative Research Commission regarding the administrative, financial, and programmatic activities of the board.*

(2) In administering the fund under subsection (1)(g) of this section, the board shall be governed by the following principles:

- *(a) Individuals, groups, educational institutions, governmental entities, and other agriculturally related entities are eligible to receive moneys from the fund; and*
- *(b) No more than one percent (1%) of the fund's annual receipts shall be expended on the administrative costs of the board.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The committees of the board shall be composed of board members knowledgeable about the programs being overseen by each committee.

(2) The committees shall develop criteria for programs to be considered by the board. The committees shall make recommendations to the board, and the board shall determine which programs are to be overseen and implemented by the committees. The board shall determine which individual projects in each program are approved.

(3) Programs that shall be created and funded by the board and overseen and implemented by the committees include:

(a) A Phase II Supplement Program to ensure that payments to tobacco quota owners and growers are maintained at the same level as the 1999 level of one hundred fourteen million dollars ($114,000,000). The board shall use information provided by the Kentucky Tobacco Settlement Trust Corporation in determining the payments to quota holders and growers;

(b) A Rural Community and Entrepreneurship Program to support small farm agricultural diversification through technical assistance, business mentoring, and financial incentives;

(c) A Farm Market Development and Infrastructure Program to develop regional, integrated farm markets, and regional or community capital projects;

(d) An Environmental Stewardship Program to provide cost-share assistance to farmland owners for compliance with the state agriculture water quality plan and other environmental compliance requirements;

(e) A Farmland Preservation Program to provide Purchase of Agricultural Conservation Easement matching funding to city, county, or urban-county governments that have enacted agricultural conservation easement acquisition programs for the purchase of agricultural development rights; and

(f) A Rural Water Line Extension Program to provide municipal water in areas of high agricultural activity.

(4) The board may create other agricultural assistance programs in addition to those created under subsection (3) of this section.

SECTION 5. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) There is created a permanent subcommittee of the Legislative Research Commission to be known as the Rural Development Oversight Committee. The subcommittee shall be composed of seven (7) members and shall include members of the House of Representatives and members of the Senate. The subcommittee shall include members of the minority party as nearly proportional to their membership in the General Assembly as mathematically possible. The Legislative Research Commission shall appoint, from the membership of the General Assembly, the members of the subcommittee for terms of two (2) years. The members so appointed shall elect one (1) of their number to serve as chair. Any vacancy that may occur in the membership of the subcommittee shall be filled by the Legislative Research Commission at its next regularly scheduled meeting after the vacancy occurs.

(2) The subcommittee shall meet monthly, or at the call of the chair. The members of the subcommittee shall be compensated for attending meetings as provided in KRS 7.090(3) and 7.110(5).

(3) A quorum of the subcommittee shall consist of four (4) members. A majority of the members present may act upon matters before the subcommittee.

(4) Any professional, clerical, or other employees required by the subcommittee shall be provided in accordance with KRS 7.090(4) and (5).

(5) The subcommittee shall review each project being recommended by the board. In reviewing the projects, the subcommittee shall determine whether the criteria developed for the programs created under Section 4 of this Act have been met and whether any other relevant requirements have been met.

(6) If the subcommittee determines that any of the criteria or requirements required by Sections 1 to 6 of this Act have not been met, the subcommittee may, by majority vote, recommend to the board in writing that a project not be approved. The reasons for not approving a project shall be stated in the correspondence, which shall be issued within sixty (60) days of receiving the recommendation from the board.

(7) If the board approves a project that the subcommittee has recommended in writing not be approved, the board shall provide a written explanation to the subcommittee why the project was approved. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.

(8) The subcommittee shall maintain records of its findings and determinations. The records shall be transmitted to the appropriate interim joint committees of the Legislative Research Commission and to the General Assembly when next convened.

SECTION 6. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) A rural development advisory council may be established in each county to evaluate the programs being funded by the board and to devise a plan for the county that would utilize the programs best suited for the agricultural members of the county. The council would assist prospective applicants in the council's county in obtaining moneys from the fund. Each council shall consist of eight (8) members as follows:

(a) Two (2) members selected by the Farm Service Agency county committee;

(b) Two (2) members selected by the soil conservation district board;

(c) Two (2) members selected by the county extension council; and

(d) Two (2) young farmers between the ages of twenty-one (21) and thirty-five (35), selected by the six (6) members in paragraphs (a) to (c) of this subsection.

(2) Each council shall be attached to the county cooperative extension service for administrative support.

(3) Each council shall utilize the services of the Kentucky Small Business Development Center Network for assistance and support in aiding prospective applicants in obtaining moneys from the fund.

(4) Councils may work cooperatively with each other to develop regional strategies for enhancing agriculture opportunities for farmers.

Section 7. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) Office of the Chief Information Officer;[~~and~~]
(10) Office of Coal Marketing and Export***; and***
(11) Rural Development Board.

Section 8. As used in subsection (2) of Section 1 of this Act, "rural development fund" means the fund with that name created in House Bill 583 of this 2000 Regular Session from a distribution of moneys in the tobacco settlement agreement fund established by KRS 248.654, or created in other legislation of this 2000 Regular Session. In codifying subsection (2) of Section 1 of this Act, the Reviser of Statutes may substitute the relevant KRS section number for the phrase "Act of the 2000 Regular Session" in that subsection.

Section 9. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law."

Floor Amendment No. 1 to the Committee Substitute to **HB 537**, by Representative Jenkins:

On Page 95, Line 20 after the word "section." by inserting the following words, "***For the spouse and dependents of members in hazardous duty positions on or before December 31, 1990, or the beneficiary of the member, if the member designated only one (1) person as beneficiary, the insurance fund shall pay a percentage of the monthly premium based on the member's total service, to include any hazardous and nonhazardous service.***"

Floor Amendment No. 2 to the Committee Substitute to **HB 537**, by Representative Jenkins:

On page 48, line 12, after the "(6)" by inserting "***(a)***"; and

On page 48, between line 24 and 25, by inserting the following:

"***(b) After August 1, 2000, an employee who purchased the maximum period of active military duty described in paragraph (a) of this subsection may purchase any qualified active military duty time in excess of the maximum by paying the retirement system the full actuarial cost as determined by the system. Payment may be made by lump sum or in increments. The payment shall not be picked up by the employer as described in KRS 16.545(4), 61.560(4), or 78.610(4) and shall be deposited in the member's individual retirement account.***".

Floor Amendment No. 6 to the Committee Substitute to **HB 296**, by Representative Westrom:

On page 6, lines 12 and 13, by deleting "***secure juvenile detention facility***";

On page 6, line 13 by deleting the opening bracket and the strikethrough from "physically secure";

On page 6, line 13, by inserting "***facility***" after "secure";

On page 6, line 13, by placing an opening bracket before "setting";

On page 9, by deleting all underlined language, brackets, and strikethrough from lines 15 through 18;

On page 9, lines 15 and 16, by bracketing and striking through "a jail, police station, lockup, intermittent holding facility, or any building which is a part of, or attached to,";

On page 9, lines 17 and 18, by bracketing and striking through "or which shares staff with a facility in which adult prisoners are confined";

On page 21, line 3, after "***within***" by deleting "***twenty-four (24) hours, exclusive of weekends and holidays***" and inserting in lieu thereof "***the time frame established by Section 5 of this Act***";

On page 26, line 10, after the first occurrence of "***report***", by inserting "***, exclusive of weekends and holidays***"; and

On page 29, after line 27, by inserting the following:

"SECTION 18. A NEW SECTION OF KRS CHAPTER 600 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of KRS Chapter 600 to 645, the inherent contempt power of the court shall not be diminished." and by renumbering the remaining sections accordingly.

Floor Amendment No. 1 to the Committee Substitute to **HB 567**, by Representative Lindsay:

On page 2, between lines 1 and 2, by inserting the following:

"***(3) "Material amount" means twenty percent (20%) or more of health-care assets or an amount that results in the acquiring entity holding thirty percent (30%) or more of health-care assets.***";

And on page 2, line 2, by renumbering "***(3)***" as "***(4)***";

And on page 2, line 5, by renumbering "***(4)***" as "***(5)***";

And on page 2, lines 19 and 20, by deleting "***in accordance with administrative regulations promulgated under Section 6 of this Act in accordance with KRS Chapter 13A***";

And on page 6, line 10, by deleting lines 10 through 12 in their entirety;

And on page 6, line 13, by deleting "***(2)***";

And on page 6, line 16, after "***Act.***" by inserting "***Any information provided under Sections 1 to 10 of this Act shall be subject to the exemptions provided under the provisions of KRS 61.872 to 61.884.***".

Floor Amendment No. 2 to **HB 875**, by Representative Crimm:

On page 9, line 8, after "***;***" by deleting "***or***"; and

On page 9, line 13, by deleting the period and inserting in lieu thereof "***; or***"; and

On page 9, after line 13, by adding:

"***(h) Individuals or entities selling lines of insurance not previously regulated by the department or individuals or entities selling lines of insurance not specifically authorized to by regulated by the Kentucky Revised Statutes.***".

Floor Amendment No. 1 to **HB 811**, by Representative Callahan:

On page 3, line 8, between the words "***an***" and "***company***" by inserting "***approved***".

Floor Amendment No. 1 to **HB 583**, by Representative Nunn:

On page 1, line 2, by placing "***(1)***" before "There"; and

on page 1, line 10, by deleting "***Moneys***"; and

on page 1, line 11, by deleting the whole line, and replacing it with:

"***(2) Ten percent (10%) of the funds from the tobacco settlement agreement fund shall be placed in a Master Settlement Agreement trust fund created in Section 2 of this Act.***

(3) The remainder of the funds from the tobacco settlement agreement fund shall be distributed as follows:"; and

on page 1, line 12, by deleting "***(1)***" and replacing it with "***(a)***"; and

on page 1, line 14, by deleting "***(2)***" and replacing it with "***(b)***"; and

on page 1, line 16, by deleting "***(3)***" and replacing it with "***(c)***"; and

after line 17, by inserting the following:

"SECTION 2. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

There is established in the State Treasury a fund to be known as the "Master Settlement Agreement Trust Fund." This fund shall exist for the purpose of receipt of moneys from the tobacco settlement agreement fund. The fund may receive gifts, grants, and federal funds and shall not be disbursed before July 1, 2002, and then only when appropriated by the General

Assembly."; and

on page 1, line 18 by changing "2" to "3"; and

on page 2, line 2. before "***proceeds***", by inserting "***funds in subsection (2) of Section 1 of this Act***"; and by deleting "***proceeds in the tobacco settlement agreement fund***"; and

on page 2, line 4, by changing "3" to "4"; and

on page 2, line 12, after "***from***", by inserting "***funds in subsection (2) of Section 1 of this Act***"; and

on page 2, line 12, by deleting "***the tobacco settlement agreement fund***"; and

on page 2, line 14, by changing "4" to "5"; and

on page 2, line 18, after "***insurance***", by inserting "***for***"; and

on page 2, line 22, after the first "***the***" by inserting "***funds in subsection (2) of Section 1 of this Act***"; and

on page 2, line 22, by deleting "***proceeds from the tobacco settlement agreement fund***"; and

on page 2, line 24, by changing "5" to "6".

Floor Amendment No. 1 to the Committee Substitute No. 2 to **HB 706**, by Representative Walton:

On page 46, after line 13, by inserting the following new section:

"SECTION 28. A NEW SECTION OF KRS CHAPTER 141 IS CREATED TO READ AS FOLLOWS:

There shall be allowed as a nonrefundable credit for any taxpayer against the tax imposed by KRS 141.020 an amount equal to one thousand dollars ($1,000) for each dependent child if, during the taxable year in which the taxpayer claims the credit:

(a) The child was less than age six (6) years for at least one hundred eighty (180) days;

(b) The parent or legal guardian was the primary caregiver for at least one hundred eighty (180) days;

(c) The child was not in the care of a child-care center, family child-care home, or enrolled child-care provider;

(d) A public child-care subsidy was not received for the child; and

(e) The child did not attend a preschool, Head Start, prekindergarten, or kindergarten program.";

On page 46, line 14, by deleting "28" and inserting "29" in lieu thereof;

On page 46, line 18, by deleting "29" and inserting "30" in lieu thereof;

On page 46, between lines 21 and 22, by inserting the following:

"Section 31. The provisions of Section 28 of this Act shall apply for taxable years beginning after December 31, 1999.";

On page 46, line 22, by deleting "30" and inserting "31" in lieu thereof.

Floor Amendment No. 11 to the Committee Substitute to **HB 1**, by Representative Stumbo:

On page 32, line 10, after "***an***" by inserting "***seventy-five percent (75%)***" and by deleting "***eighty-five percent (85%)***"; and

On page 32, line 13, after "***of***" by inserting "***seventy-five percent (75%)***" and by deleting "***eighty-five percent (85%)***";

Floor Amendment No. 1 to **HB 676**, by Representative Alexander:

On page 20, line 11, by deleting "***sixteen (16)***" and removing the brackets and strikethroughs to restore the original text;

On page 20, line 13, by deleting "***Nine (9)***" and removing the brackets and strikethroughs to restore the original text;

On page 20, line 25, by deleting "***three (3)***" and removing the brackets and strikethroughs to restore the original text;

On page 23, beginning on line 1 and continuing on line 2, by deleting "***one (1) shall be engaged in advanced registered nursing practice;***"

On page 27, by deleting lines 19 to 23 in their entirety.

Floor Amendment No. 10 to the Committee Substitute to **HB 1**, by Representative Stumbo:

An page 1 after the enacting clause to page 16, line 3, by deleting sections 1 through 18 in their entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Bottler" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each bottler location shall be considered a separate bottler;

(2) "Beverage distributor" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each beverage distribution location shall be considered a separate beverage distributor;

(3) "Distributor" means any person who distributes goods or property other than containers with beverages to a retailer;

(4) "Manufacturer" means any person who manufactures, fabricates, produces, processes, assembles, combines, or takes any other action upon any product or property to create a new, different, or modified product that may be sold at wholesale or retail, or may be acted upon further by another process; and

(5) "Retailer" means any person who sells goods or property for use or consumption. Each retail location shall be considered a separate retailer.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every distributor, beverage distributor, bottler, manufacturer, and retailer conducting business as defined at KRS 139.040 in this state, shall pay an environmental impact fee annually based upon their annual taxable receipts as reported for Kentucky sales tax purposes. Each bottler location, beverage distributor location, and retail location shall pay the annual impact fee based upon annual taxable receipts as reported for Kentucky sales tax purposes at that location only. The amount of the fee shall be as follows:

  (a) For annual taxable receipts for sales tax purposes in excess of ten million dollars ($10,000,000), the fee shall be two thousand dollars ($2,000);

  (b) For annual taxable receipts for sales tax purposes of at least one million dollars ($1,000,000) but not more than ten million dollars ($10,000,000), the fee shall be one thousand five hundred dollars ($1,500);

  (c) For annual taxable receipts for sales tax purposes of at least five hundred thousand dollars ($500,000) but not more than one million dollars ($1,000,000), the fee shall be one thousand dollars ($1,000); and

  (d) For annual taxable receipts for sales tax purposes of less than five hundred thousand dollars ($500,000), there shall be no fee.

(2) No distributor or manufacturer, regardless of the number of locations, shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually. No bottler location, beverage distributor location, or retail location shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Kentuckians Against Trash Fund" is hereby created in the State Treasury of the Commonwealth to be administered by the Revenue Cabinet and overseen by the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. All payments collected under Sections 2 and 9 of this Act shall be deposited in the Kentuckians Against Trash fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

  (a) Eighteen percent (18%) to be used by the Department of Transportation for cleanup of litter along interstates and state highways, including rural secondary roads;

  (b) Thirty percent (30%) to be distributed to the governing body of the one hundred and twenty (120) counties based on the number of miles of county and rural secondary roads within each county for cleanup of roadside litter on roads other than interstates, state highways, and rural secondary roads;

  (c) Thirty-eight percent (38%) to be distributed to the governing body of counties based on county population as determined by the most recent decennial census of the United States Census Bureau, except that the governing body of counties with cities of the first, second, third, and fourth classes shall divide the money between the county and the cities based on a per capita basis based on county and city population as determined by the most recent decennial census of the United States Census Bureau. In the first year of receiving fund money, a governing body of counties without established universal garbage collection shall use the money to implement a universal garbage collection program. No governing body shall use fund money at any time to supplement solid waste pick-up fees other than for low income households as defined by the cabinet. The priority of application and use of the moneys for governing bodies of counties with established universal garbage collection programs, and for governing bodies of counties without established universal garbage collection programs for subsequent years after the first year, shall be as follows:

    1. Maintenance of universal garbage collection as defined in Section 19 of this Act;

2. Cleanup of illegal dumps;

3. Development or expansion of recycling programs, including the purchase of infrastructure and equipment necessary for recycling;

4. Solid waste and recycling education; and

5. Additional solid waste or recycling programs and activities as approved by the cabinet.

(d) Ten percent (10%) to be used by the Legislative Research Commission for producing, purchasing, and airing public service announcements to reduce litter and encourage recycling;

(e) Two percent (2%) to be placed in the Adopt-a-Highway Fund created in Section 11 of this Act and used by the Department of Transportation Adopt a Highway program;

(f) One percent (1%) to be used by the Revenue Cabinet for administrative costs associated with collecting and distributing the environmental fee; and

(g) One percent (1%) to be used by the Natural Resources and Environmental Protection Cabinet for administrative costs associated with reviewing county solid waste management plans and promulgating reporting requirements.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentuckians Against Trash Oversight Committee that shall consist of nineteen (19) members appointed by the Legislative Research Commission. Members shall include the following:

(a) Four (4) members of the General Assembly, two (2) of whom shall be members of the House and two (2) of whom shall be members of the Senate. Two (2) of the members shall serve on the Interim Joint Committee on Agriculture and Natural Resources. One (1) member of the House and one (1) member of the Senate shall serve as co-chairs of the committee;

(b) One (1) representative of the Natural Resources and Environmental Protection Cabinet;

(c) One (1) representative of the Transportation Cabinet;

(d) One (1) representative of the Environmental Quality Commission;

(e) One (1) representative of the Kentucky League of Cities;

(f) One (1) representative of the Kentucky Association of Counties;

(g) One (1) representative of the Solid Waste Coordinators of Kentucky;

(h) One (1) representative of the Kentucky Resources Council;

(i) One (1) representative of the Kentucky Farm Bureau;

(j) One (1) representative of the Kentucky Scrap Processors and Recyclers Association;

(k) One (1) representative of the Bluegrass Regional Recycling Corporation;

(l) One (1) representative of the Kentucky Retail Federation;

(m) One (1) representative of the Kentucky Beer Wholesalers Association;

(n) One (1) representative of the Kentucky Bottlers Association;

(o) One (1) representative of the Kentucky Grocers Association; and

(p) One (1) representative of the Wine and Spirits Wholesalers of Kentucky.

(2) Of the twelve (12) members identified in paragraphs (e) to (p) of subsection (1) of this section and first appointed, four (4) shall continue as members for terms of one (1) year, four (4) for terms of two (2) years, and four (4) for terms of three (3) years, as the Legislative Research Commission designates. At the expiration of the original terms and for all succeeding terms, the Legislative Research Commission shall appoint a successor to the committee for a term of three (3) years. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(3) Ten (10) members shall constitute a quorum.

(4) The committee shall meet at least once every three (3) months, the time and place to be determined by the co-chairs of the committee. The committee shall keep an accurate record of its proceedings.

(5) Staff services shall be provided by the Legislative Research Commission.

(6) The members shall serve without compensation but may receive reimbursement from the Legislative Research Commission for their actual and necessary expenses to attend committee meetings.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The committee shall review reports from the Legislative Research Commission and from the cabinets that receive

money according to Section 3 of this Act. These reports shall include a breakdown of the use of fund money. The Revenue Cabinet and the Natural Resources and Environmental Protection Cabinet shall report how the money is used for administrative costs. The Legislative Research Commission shall report on the use of fund money for, and the status of, the public service announcement campaign. The Transportation Cabinet shall report on the use of fund money and progress made by the Adopt-A-Highway program. These reports shall be filed with the committee by July 31 of each year, beginning with July 31, 2002.

(2) A governing body shall file a report as required by the cabinet according to Section 8 of this Act. The reports shall contain information about how the money is appropriated in counties and cities, the progress made in reducing litter, the status of county or city solid waste management activities, and any additional information the committee may request.

(3) The committee shall issue a report to the Legislative Research Commission by September 30 of every odd-numbered year that includes a breakdown of the use of fund money, the progress made in reducing litter, the status of the public service announcement campaign, and any additional findings of the committee. The report may make recommendations to the General Assembly on ways to further the goals and purposes of Sections 1 to 10 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A governing body shall demonstrate in its solid waste management plan or on other forms prescribed by the cabinet, how its area shall use the fund money received under Section 3 of this Act. The governing body shall demonstrate how the intended use of fund money fits within the area solid waste management plan required by KRS 224.43-345, or update the plan accordingly. The cabinet shall approve the governing body's intended use of fund money before it is eligible to receive money to ensure that the intended use complies with the priorities established in subsection (2) of Section 3 of this Act.

(2) The cabinet may promulgate administrative regulations to carry out the requirements of this section.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the Kentuckians Against Trash Fund and the cost of the audit shall be considered an administrative cost to be borne by the Revenue Cabinet. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of the audit to the Legislative Research Commission and the Interim Joint Committee on Agriculture and Natural Resources.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Governing bodies receiving moneys according to Section 3 of this Act shall establish a line item in their budget to account for the money received. A proposed county budget required in KRS 68.240 shall include anticipated money to be received under Section 3 of this Act.

(2) The cabinet shall establish by administrative regulations reporting requirements for expenditure of funds and receipt of unobligated funds by governing bodies. If a governing body fails to comply with the requirements of these administrative regulations, money from the fund shall be withheld from the governing body for the next year.

(3) The cabinet shall prepare and furnish summaries of reports to the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. The committee may request a copy of the original report required in this section.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any bottler, beverage distributor, distributor, manufacturer, or retailer who violates Section 2 of this Act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for an initial offense and not more than five thousand dollars ($5,000) for each subsequent offense. Each day that a person violates Section 2 of this Act shall constitute a separate offense.

(2) All moneys collected under this section shall be deposited in the Kentuckians Against Trash Fund.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act shall automatically be repealed and all requirements set forth therein, including without limitation the environmental impact fees created by Section 2 of this Act, along with any administrative regulations promulgated according to Sections 1 to 10 of this Act, shall terminate immediately upon enactment of any Constitutional amendment, law, or administrative regulation which in any manner establishes a refund value, required deposit, or similar requirement for beverage or other similar containers sold in the Commonwealth."; and

Renumber subsequent sections accordingly; and

On page 16, lines 22 and 23, by deleting them in their entirety; and

On page 16, line 24, by changing "***(5)***" to "***(4)***"; and

On page 17, line 27, by changing "***25***" to "***17***"; and

On page 18, line 3, by changing "***25***" to "***17***"; and

On page 18, line 21, by changing "***22***" to "***14***"; and

On page 19, line 16, by changing "***22***" to "***14***"; and

On page 20, line 13, by changing "***22***" to "***14***"; and

On page 20, line 17, by changing "***20***" to "***12***"; and

On page 20, line 18, by changing "***22***" to "***14***"; and

On page 20, line 21, by changing "***22***" to "***14***"; and

On page 30, lines 17 and 18, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 30, line 23, after "***county***", by inserting "***or governing body***"; and

On page 30, line 25, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 9, by deleting "***county, urban-county, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 16, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 18, by deleting "***bulk***"; and

On page 31, line 19, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, lines 20 and 21, by deleting "***and to any waste management district of which it is a member***"; and

On page 31, line 27, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, lines 2 and 3, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 8, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 9, by deleting "***requirements of this section***" and inserting "***requirement of universal collection***" in lieu thereof; and

On page 32, lines 12 and 13, by deleting "***county, urban-county government, charter county government or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 14, after "***waste***" by inserting "***in its area***"; and

On page 32, lines 17 and 18, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 18, after "***waste***" by inserting "***in its area***"; and

On page 32, line 22, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On pages 32, line 27, and page 33, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 2, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 8, by changing "***26***" to "***20***"; and

On page 33, line 9, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, lines 20 and 21, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On pages 33, line 27, and page 34, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 36, line 7, by deleting "***counties***" and inserting "***governing bodies***" in lieu thereof; and

On page 38, beginning with line 7 and continuing to page 41, through line 4, by deleting these lines in their entirety and renumbering subsequent sections accordingly; and

On page 41, lines 10 through 14, by deleting them in their entirety and renumbering subsequent sections accordingly; and

On page 41, after line 4, by inserting the following:

"Section 23. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 1 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units as prescribed by the state local finance officer, including but not limited to:

(a) General expenses of county government.

(b) Protection to persons and property.

(c) General health and sanitation.

(d) Social services.

(e) Recreation and culture.

(f) Transportation facilities and services.

(g) Debt service.

(h) Administration and miscellaneous.

(i) Jail operations.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The county budget shall include a line item to account for money to be received according to Section 3 of this Act.

(7)[~~(6)~~]The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250."; and

Renumber subsequent sections accordingly; and

On page 41, line 15, by changing "18" to "10".

Floor Amendment No. 1 to **HB 585**, by Representative Johns:

On page 2, line 26, after the period "***.***", by deleting the remainder of the line; and

On page 2, by deleting line 27 in its entirety and replacing it with the following:

"***(4) Applicants who meet the requirements of Section 3 of this Act and are issued operator's licenses under Section 4 of this Act shall have their driving privileges restricted to the use of a bioptic telescopic device.***"; and

On page 3, by deleting lines 1 to 4 in their entirety; and

On Page 3, line 7, after the subsection number "***(1)***" by deleting the remainder of the line; and

On page 3, line 8, deleting the words "***subsection (3) of Section 2 of this Act.***"; and

On page 5, line 6 after the semicolon "***;***" by inserting "***and***"; and

On page 5, line 7 by deleting "***; and***" and inserting in lieu thereof a period "***.***"; and

On page 5, by deleting lines 8 and 9 in their entirety; and

On page 5, line 24 by deleting the words "***medical review board***" and inserting in lieu thereof "***department***"; and

On page 6, beginning on line 27, by deleting Section 6 in its entirety; and

On page 7, line 26, by renumbering Section 7 as Section 6.

Floor Amendment No. 7 to the Committee Substitute to **HB 611**, by Representative T. Turner:

By deleting all of the bill following the enacting clause, and inserting in lieu thereof the following:

"SECTION 1. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 and 2 of this Act:

(1) "Corporation" means the Kentucky Tobacco Settlement Trust Corporation;

(2) "Master Settlement Agreement" means the agreement between certain tobacco companies and states' Attorneys General dated November 23, 1998, that is often referred to as the "Phase I Settlement Agreement";

(3) "Master Settlement Agreement funding" means moneys paid to the state as a result of the Master Settlement Agreement. Payments are scheduled to come to the state each year through the year 2525 and possibly beyond;

(4) "National Tobacco Grower Settlement Trust Agreement" means the agreement between certain tobacco companies and tobacco-growing states, designed to provide funds to tobacco growers and tobacco quota holders, and often referred to as the "Phase II Settelment Agreement"; and

(5) "Phase II funding program" means the Commonwealth's program to distribute Phase II funds to tobacco growers and quota holders for the twelve (12) year life of Phase II funding.

Section 1. KRS 248.654 is amended to read as follows:

(1) There is established in the State Treasury a permanent and perpetual fund to be known as the "Tobacco Settlement Agreement Fund" to which shall be credited any funds designated to the Commonwealth from the ***Master***[~~tobacco~~] Settlement Agreement ***(Phase I)*** or related federal legislation. Any funds designated to the Commonwealth from the ***Master*** Settlement Agreement or related federal legislation shall not be expended until appropriated by the General Assembly. The General Assembly's highest priority for distributing any funds from this account shall be for tobacco ***growers and quota owners***[~~farmers and tobacco-impacted communities and health-related areas~~].

(2) All moneys in the tobacco settlement agreement fund that come from Master Settlement Agreement (Phase I) funding shall be distributed to tobacco growers and quota owners by the Finance and Administration Cabinet according to a plan that shall be provided by the Kentucky Settlement Trust Corporation created in House Bill 96 of the 2000 Regular Session. In preparing the plan for the Finance and Administration Cabinet to distribute moneys in the tobacco settlement agreement fund, the corporation shall use the same formula that it provides for distribution of National Tobacco Settlement Trust Agreement (Phase II) funds to tobacco growers and quota owners each year of the Phase II funding program. After the Phase II funding program ends, the Kentucky Settlement Trust Corporation shall continue to exist and shall continue to provide a plan to the Finance and Administration Cabinet for distribution of moneys in the tobacco settlement agreement fund. The corporation shall continue to provide the plan and a formula used for distribution of the moneys to tobacco growers and quota owners for the life of Master Settlement Agreement funding.

Section 3. Whereas it is important to establish the administrative functions of this Act as soon as possible, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law."

Floor Amendment No. 17 Title to **SJR 57**, by Representative Riner:

On page 1, by amending the title to read as follows:

"A JOINT RESOLUTION relating to the display and study of historic documents which include a depiction of the Ten Commandments."

Floor Amendment No. 18 to **SJR 57**, by Representative Riner:

On page 1, by deleting all whereas clauses on page 1 in their entirety; and

By deleting page 2, 3 and 4 in their entirety; and

by inserting in lieu thereof the following:

WHEREAS, the Framers of Kentucky's Constitution acknowledged Almighty God to be the source of the Commonwealth's public and private liberties in the following words:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution"; and

WHEREAS, in 1992, the Kentucky General Assembly recognized in the enactment of KRS 158.195 that there is nothing in the Kentucky Constitution or the First Amendment to the United States Constitution which requires the rewriting of American or Kentucky history or the suppression or censorship of those histories for any reason, particularly because of any religious references in historic documents; and

WHEREAS, many of the Ten Commandments have been codified in Kentucky's civil and criminal laws and similarly in the legal codes of the other forty-nine states; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that "[t]he judicial laws of God, as they were delivered by Moses be a rule to all the courts in this jurisdiction"; and

WHEREAS, William Blackstone, Esq., eminent British jurist, Professor of Law, and legal scholar whose writings shaped the thoughts of the men who wrote the Declaration of Independence and the other founding documents of the Republic which became the authority for much of our original American system of jurisprudence, stated in his "Commentaries on the Laws of England" published in 1765: "[u]pon these two foundations, the law of nature and the law of revelation [the Bible] depend all human laws"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution," emphasized the Biblical presuppositions of that document:

> "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to require the removal of the Bible and the Ten Commandments from public school classrooms:

> "Should not the Bible regain the place it once held as a schoolbook? Its morals are pure, its examples are captivating and noble. . . . In no Book is there so good English, so pure and so elegant, and by teaching all the same they will speak alike, and the Bible will justly remain the standard of language as well as of faith"; and

WHEREAS, in an article published in "Palladium" magazine on September 20, 1789, Congressman Ames further amplified his concern that American education should include familiarity with the Bible:

> "We are spending less time in the classroom on the Bible which should be the principal text in our schools . . . The Bible states these great moral lessons better than any other manmade book"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, President George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared:

> "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . . Let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle"; and

WHEREAS, Noah Webster, the author of dictionaries and America's first speller, grammar, and reader (the famed 1783 "Blue-Backed Speller"), articulated the mindset of the Framers who presupposed a Biblical basis for law:

> "The moral principles and precepts contained in the Scriptures ought to form the basis for all our civil constitutions and laws. All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery and war proceed from their despising or neglecting the precepts contained in the Bible"; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society, on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated:

> "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of that Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Saviour, Jesus Christ"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision which has never been overruled, cited sixty-six authorities which show the Bible's singular influence on America:

> "There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that: 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear

> recognition of the same truth . . . this is a Christian nation' "; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English Language, stated:

> "Up to the time of the translation of the Bible into English, it was a book for long ages withheld from the perusal of the peoples of other languages and other tongues, and not a little of the history of liberty lies in the circumstance that the moving sentences of this book were made familiar to the ears and understanding of those peoples who have led mankind in exhibiting the forms of government and the impulses of reform which have made for freedom and for self-government among mankind.
>
> "For this is a book which reveals men unto themselves, not as creatures in bondage, but as men under human authority, not as those bidden to take counsel and command of any human source. It reveals every man to himself as a distinct moral agent, responsible not to men, not even to those men whom he has put over him in authority, but responsible through his own conscience to his Lord and Maker. Whenever a man sees this vision he stands up a free man, whatever may be the government under which he lives, if he sees beyond the circumstances of his own life . . . Moreover, the Bible does what is so invaluable in human life -- it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters -- that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude.
>
> "How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and

WHEREAS, President Woodrow Wilson's letter to the soldiers and sailors of the United States during World War I, recorded in the Congressional Record, advised them:

> "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and, most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, before his assassination on November 22, 1963, President John F. Kennedy prepared a major address on the status of American strength and security, choosing his last words from the Bible to reveal the source of America's true security: "Except the Lord keep the city, the watchman waketh but in vain"; and

WHEREAS, in his book, "Sources of Power," President Jimmy Carter acknowledged the importance of the Mosaic law as a foundation:

> "As we face changes and challenges, we need to hold on to the things that don't change, the foundations on which we can build our lives despite the uncertainty and danger of the future. God's law is the greatest of these foundations"; and

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the governmental power of the state are derived; and

WHEREAS, in his November, 1976 interview with Robert Scheer, President Jimmy Carter stated:

> "I think the laws are on the books quite often because of their relationship to the Bible. Early in the nation's development, the Judeo-Christian moral standards were accepted as a basis for civil law"; and

WHEREAS, in his February 22, 1990 proclamation designating 1990 as The International Year of Bible Reading, President George Bush declared:

> "The Bible has had a critical impact upon the development of Western civilization. Western literature, art, and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man -- one affirming the dignity and worth of the human person, made in the image of our Creator -- that inspired the principles upon which the United States is founded. President Jackson called the Bible "the rock on which our Republic rests" because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope, and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historic speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and

direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared, 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education, with assistance as necessary by the Legislative Research Commission, shall electronically transmit KRS 158.195 and this resolution to all public school teachers in the Commonwealth setting forth the legal guidelines established by the General Assembly in this resolution governing elected officials and public school teachers electing to post historic displays which include a depiction of the Ten Commandments.

Section 2. Documents depicting the Ten Commandments may be posted in classrooms by any public school teacher and on other public property, when incorporated into an historical display along with other historic documents as described in KRS 158.195 which may also trace the influence of the Bible on America's Founding Fathers, Presidents, laws, and institutions of government. Each historic document displayed inside a public building or school shall be displayed in a sixteen (16) inch by twenty (20) inch frame, except that the frame containing this resolution and KRS 158.195 may be larger. The purpose of the display shall not be to advance religion, but to advance the important secular purpose of illustrating how the Bible and the Ten Commandments have influenced the faith, morals, and character of American leaders who, in turn, have shaped American law, public policy, and institutions. For that reason, the General Assembly expresses no preference as to which version of the Ten Commandments is displayed or whether the display is in English, Hebrew, or a foreign language being taught in the classroom. To advance the secular purpose of making citizens of the Commonwealth more knowledgeable concerning the founding of America, the intent of the nation's Founders, and the formative influence of the Bible and the Ten Commandments on American leaders, institutions, and law, a copy of this resolution shall be made a prominent part of any historic display on public property which includes any depiction of the Ten Commandments.

Section 3. The General Assembly directs the Kentucky Department of Education, in consultation with the Legislative Research Commission through its director, to institute a "Read to Lead" program, the goals of which shall be to familiarize students with writings and speeches of America's Founders, Framers, and Presidents which show how important the Bible, the Ten Commandments, religious faith, and strong moral character were to those American leaders. The Kentucky Department of Education shall make these historic documents and materials easily accessible to public school teachers on its web site.

Section 4. No fiscal court, city council, school board, or site-based council shall post any historical display set forth in KRS 158.195 which incorporates a depiction of the Ten Commandments until that governing body first sets forth by resolution or policy its secular purpose for erecting the display. This purpose shall not advance religion.

Section 5. Each historic display which incorporates a depiction of the Ten Commandments shall be accompanied by clearly legible copies of this resolution and of KRS 158.195; and the cost of posting and maintaining the displays shall be paid for by voluntary private contributions.

Section 6. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Department for Local Government for distribution by the department, in the manner it deems most efficient, to all elected officials of each city and county of the Commonwealth.

Section 7. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Secretary of State for distribution by the Secretary of State, in the manner he deems most efficient, to the statewide elected officials of the Commonwealth.

Section 8. The eighty-six (86) inch by forty-two (42) inch monument, with its base, which is inscribed with the Ten Commandments and which was displayed on the Capitol grounds for decades shall be relocated to a site on the Capitol grounds near Kentucky's floral clock and shall be made a part of an historic display which shall include the display of this Resolution.

Floor Amendment No. 4 to the Committee Substitute to **HB 437**, by Representative Johns:

On page 10, line 23 by deleting "***nineteen (19)***" and by inserting in lieu thereof "***twenty-three (23)***";

On page 10, line 25, by deleting "***seventeen (17)***" and by inserting in lieu thereof "***twenty-one (21)***";

On page 10, line 27, by deleting "***ten (10)***" and by inserting in lieu thereof "***fourteen (14)***";

On page 11, line 1, by deleting "***eight (8)***" and by inserting in lieu thereof "***twelve (12)***";

On page 12, line 7, by deleting "***three (3)***" and by inserting in lieu thereof "***five (5)***"; and

On page 12, line 8, by deleting "***three (3)***" and by inserting in lieu thereof "***five (5)***".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills under rules previously suspended:

HB 268:	Representative Hoffman
HB 598:	Representative Jordan
HB 706:	Representative McKee
HB 843:	Representative Jordan
HB 923:	Representative Alexander

Announcements

The following meetings were announced:

Labor and Industry, March 6, 2000, 1 hour upon adjournment, Room 149

Tourism, Development, and Energy, March 9, 2000, upon adjournment

Subcommittee on Justice, March 8, 2000, 11:00 a.m., Room 125

Judiciary, March 6, 2000, upon adjournment, Room 129

The following meeting was canceled:

Tourism, Development, and Energy, March 7, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 7, 2000.

The motion that the House adjourn until 2:00 p.m., March 7, 2000, was adopted by voice vote.

MARCH 7, 2000

FORTY-SECOND LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend K. L. Moore, First Baptist Church, Frankfort.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 6, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bill and Resolution:

Health and Welfare: **HR 150**

Judiciary: **SB 218**

Report of Committees

The Committee on Health and Welfare reported **HB 566,** with Committee Substitute attached thereto, **HB 667, HB 771, HB 843,** with Committee Substitute and Committee Amendment attached thereto, **HB 886, HJR 90,** with Committee Substitute and Committee Amendment attached thereto, and **HCR 119** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 566, AN ACT relating to acupuncture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

(1) "Acupressure" means the application of pressure to acupuncture points;

(2) "Acupuncture needle" means a needle designed exclusively for acupuncture purposes. It has a solid core, with a tapered point and is twelve-hundredths (0.12) of one (1) millimeter to forty-five hundredths (0.45) of one (1) millimeter thick, and is constructed of stainless steel, gold, silver, or other board-approved material that can be sterilized according to the recommendations of the National Centers for Disease Control and Prevention;

(3) "Acupuncture points" means specific anatomically described locations as defined by the recognized acupuncture reference texts. The texts are listed in the study guide for the National Certification Commission for Acupuncture and Oriental Medicine certification examination;

(4) "Acupuncture practitioner" means a person licensed to practice acupuncture under Sections 1 to 17 of this Act;

(5) "Board" means the Board of Medical Licensure;

(6) "Breathing techniques" means breathing exercises taught to a patient as part of a treatment plan;

(7) "Cupping" means a therapy in which a jar-shaped instrument is attached to the skin and negative pressure is created by using suction;

(8) "Dermal friction" means rubbing on the surface of the skin using topical ointments with a smooth-surfaced instrument without a cutting edge that can be sterilized or, if disposable, used one (1) time only;

(9) "Electrical stimulation" means a method of stimulating acupuncture points by an electrical current of one-thousandth (.001) of one (1) milliamp to one hundred (100) milliamps, or other current as approved by the board. Electrical stimulation may be used transcutaneously without penetrating the skin;

(10) "Herbal supplemental therapies" means the use of herbs and patent herbal remedies as supplements as part of the

treatment plan of the patient;

(11) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine or its successor;

(12) "Needle sickness" means a temporary state of nausea and dizziness that is a potential side effect to needle insertion from which full recovery occurs when the needles are removed; and

(13) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal stimulation at certain acupuncture points or, meridians on the surface of the human body for purposes of changing the flow of energy in the body and may include acupressure, cupping, moxibustion, Gwa Sha, exercise and breathing techniques, nutrition without the use of herbs unless in accordance with the Food and Drug Administration standards, and lifestyle change. The practice of acupuncture shall not include laser acupuncture, osteopathic manipulative treatment, chiropractic adjustments, physical therapy, surgery, or utilization of diagnostic tests and procedures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in the practice of acupuncture shall be licensed. The license shall be conspicuously displayed in the licensed acupuncture practitioner's place of business.

(2) An acupuncture practitioner shall use the designation "licensed acupuncturist" or "L.Ac." following his or her name in all advertisements, professional literature, and billings used in connection with his or her practice. A person who is not licensed under Sections 1 to 17 of this Act shall not use any terms, words, abbreviations, letters, or insignia that indicates or implies that he or she is engaged in the practice of acupuncture.

(3) Any person who violates this section shall be guilty of a Class A misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2 to 17 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, nurse practitioners, dentists, chiropractors, podiatrists, or students enrolled in accredited training programs in these professions. Nothing in Sections 2 to 17 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public.

(2) Nothing in Sections 1 to 17 of this Act shall be construed to apply to the activities and services of a student intern or trainee pursuing a program of studies in the practice of acupuncture in an institution approved by the board for teaching the practice of acupuncture if the person is designated an acupuncture intern or student in training and the intern's activities are performed under supervision and constitute a part of the supervised program of study.

(3) Nothing in Sections 1 to 17 of this Act shall be construed to apply to the activities of visiting acupuncturists in performing their duties as teachers at a board- approved institution or board-approved workshop or tutorial.

(4) Nothing in Sections 1 to 17 of this Act shall prohibit a person who is not a licensed acupuncture practitioner from practicing specific noninvasive techniques that constitute the practice of acupuncture, as defined in Section 1 of this Act, such as acupressure, cupping, and dermal friction.

(5) Nothing in Sections 1 to 17 of this Act shall be construed to restrict the activities of a person not licensed under Sections 1 to 17 of this Act to engage in auricular acupuncture for the purpose of treating alcoholism, substance abuse, or chemical dependency if the person:

  (a) Provides the board documentation of having successfully completed a board-approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training set by the National Acupuncture Detoxification Association;

  (b) Provides the board documentation of having successfully completed a clean needle technique course; and

  (c) Maintains the ethical standards of Sections 1 to 17 of this Act and administrative regulations promulgated by the board under Sections 1 to 17 of this Act.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Prior to July 15, 2002, a person may qualify for provisional licensing on the basis of the person's experience if:

  (a) He or she has engaged in the practice of acupuncture for at least three (3) of the past five (5) years with at least five hundred (500) patient visits with at least one hundred (100) different patients in each of the three (3) years;

  (b) He or she provides documentation of having completed a "clean needle course" approved by the Acupuncture Advisory Council established by Section 11 of this Act;

  (c) He or she provides at least four (4) of the following:

    1. Letters from employers specifying the dates and hours worked, the nature of the practice, and the number of acupuncture patient visits;

    2. Affidavits from a minimum of twenty (20) patients with current phone numbers and addresses for each, specifying the time, period, and nature of treatment;

    3. Affidavits from two (2) other persons with personal knowledge regarding the dates, volume, scope, and *type of practice;*

4. *Affidavits from at least two (2) of the following, other than those supplying information in subparagraphs 1. and 4. of this paragraph: health-care professionals, state or local acupuncture or Oriental medicine associations, and board-approved schools or colleges on the dates, volume, scope, and type of practice; or*

5. *Copies of patient records with all identifying information removed;*

(d) He or she submits an application for licensure on forms provided by the board and pays all required fees;

(e) He or she signs an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief;

(f) He or she signs a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession; and

(g) He or she submits any other reasonable information the board may require.

(2) Any information provided under paragraphs (a) to (d) of subsection (1) of this section that is submitted in a foreign language shall be accompanied by an accurate translation in English. Each translated document shall bear the notarized affidavit of the translator certifying that the translator is competent in both the language of the original document and in English, and that the translation is a true and complete translation of the original document.

(3) Prior to July 30, 2002, an application for licensing under this section may be submitted to the board. A person may not apply for licensing under this section until he or she has completed all patient visits required under subsection (1)(a) of this section.

(4) The license shall expire one (1) year after the date of its issuance, and shall be nonrenewable. The board may issue a permanent license to an applicant who is issued a provisional license under this section if the applicant provides proof to the board that he or she is currently certified in accordance with NCCAOM requirements and meets other requirements as promulgated by the board in administrative regulations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board, on the advice of the Acupuncture Advisory Council, may license a person by endorsement if:

(a) The person holds a current license or certificate as an acupuncturist from another jurisdiction;

(b) The person is in good standing in the other jurisdiction; and

(c) The board determines that the standards under which the person was initially certified or licensed in the other jurisdiction meet or exceed the requirements under Section 6 of this Act.

(2) The applicant for licensing under subsection (1) of this section shall also:

(a) Submit an application for licensure on forms provided by the board and pay all required fees;

(b) Sign an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief;

(c) Sign a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession; and

(d) Submit any other reasonable information the board may require.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person may be licensed as an acupuncture practitioner if the person:

(a) Submits an application for licensure on forms provided by the board and pays all required fees;

(b) Submits an official copy of the applicant's current NCCAOM certification;

(c) Signs an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief; and

(d) Signs a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession.

(2) The board may request the applicant to provide other reasonable information the board may require.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may request any reasonable information necessary to clarify whether the information submitted in the application under Sections 4 to 6 of this Act is complete and accurate. The board shall notify each applicant in writing of the action it takes on the application within one hundred twenty (120) days of the board's receipt of the application.

(2) If the board denies an application, it shall notify the applicant of the grounds on which the denial is based. The applicant may then request a hearing from the board in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person licensed as an acupuncture practitioner shall annually, on or before June 1 of each year, pay to the board a renewal fee established by the board in administrative regulations. The renewal fee shall not exceed two hundred dollars ($200). A license that is not renewed by June 1 of each year shall expire for failure to renew in a timely manner.

(2) The board shall notify the licensee of the renewal date at the licensee's last known address. The notice shall include an application and notice of renewal fees. It shall be no excuse that the licensee did not receive the renewal notice.

(3) A sixty (60) day grace period shall be allowed after June 1 of each year during which the acupuncture practitioner may continue to practice. The acupuncture practitioner may renew his or her license upon payment of the renewal fee and a late renewal fee of fifty dollars ($50).

(4) Any license not renewed by the end of the grace period shall terminate, and the practitioner shall no longer be eligible to practice acupuncture in the Commonwealth. An individual with a terminated license may have his or her license reinstated upon payment of the renewal fee and a reinstatement fee as established by the board in administrative regulations. A person who applies for reinstatement shall not be required to take an examination as a condition of reinstatement if the person's reinstatement application is made within five (5) years of the date of termination.

(5) A suspended license shall expire and terminate if not renewed. Renewal of a suspended license shall not entitle the licensee to practice until the suspension has ended or the right to practice is restored by the board.

(6) A revoked license shall terminate and may not be renewed. If a revoked license is reinstated, the licensee shall pay the renewal fee and the reinstatement fee under subsections (1) and (3) of this section, respectively.

(7) If a person fails to reinstate his or her license within five (5) years of its termination, the license shall not be renewed, restored, reissued, or reinstated. The person shall obtain a new license under the conditions established in Section 6 of this Act.

(8) The board may require that a person applying for renewal or reinstatement of licensing complete continuing education requirements as established in administrative regulations promulgated by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person licensed under Section 4, 5, or 6 of this Act may apply for inactive status upon submitting an application and paying an inactive status fee.

(2) An inactive license may be reactivated upon application to the board. If a license has been inactive for more than five (5) consecutive years, the licensee shall apply for a new license and shall meet all the requirements in existence for a license under Section 5 or 6 of this Act. That application for licensing shall require:

(a) Evidence of the certificate holder's payment of an inactive status fee; and

(b) Payment of the initial licensing fee..

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board may issue a temporary permit to practice acupuncture to an applicant eligible for licensing if a complete application for licensure has been submitted and all fees have been paid, including a nonrefundable temporary permit fee. The temporary permit shall be nonrenewable and shall be effective only until the meeting of the board at which a decision is made on the applicant's application for licensing. The permit shall not be in effect for more than ninety (90) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Acupuncture Advisory Council under the Board of Medical Licensure. The council shall consist of seven (7) members appointed by the Governor. Four (4) members shall be licensed acupuncture practitioners; one (1) member shall be a licensed physician or osteopath who also practices acupuncture; one (1) member shall be a member of the board; and one (1) member shall be a member of the public who shall not be associated with or financially interested in the practice of acupuncture. The original members shall be appointed as follows: one (1) member for a one (1) year term; two (2) members for a two (2) year term; two (2) members for a three (3) year term; and two (2) members for a four (4) year term. All members thereafter shall be appointed for a term of four (4) years. Any vacancy in the membership of the council shall be filled for the unexpired term by appointment of the Governor.

(2) Each member of the council shall receive one hundred dollars ($100) for each day of service actually given in carrying out the member's duties under this section and actual and necessary traveling, hotel, and contingent expenses incurred in attending the meetings of the council and performing its duties.

(3) The council shall annually elect a chairman and a secretary. The council shall hold at least two (2) meetings annually, and may hold additional meetings upon the call of the chairman or the written request of at least three (3) council members. The secretary shall keep a record of the minutes of the council's meeting. Four (4) members of the council shall constitute a quorum to conduct business.

(4) The Governor may remove any member for poor attendance at council meetings, neglect of duty, or malfeasance in office.

(5) The advisory council shall:

- *(a) Advise the board on the issuance, denial, suspension, or revocation of or restriction on licenses to practice acupuncture;*
- *(b) Advise the board on issues relating to the receipt, investigation, or conduct of hearings and the imposition of disciplinary actions in relation to complaints against persons engaging in the practice of acupuncture;*
- *(c) Maintain a record of all advisory council actions;*
- *(d) Review the patient visit records submitted by applicants for licensing or renewal thereof;*
- *(e) Advise the board on standards for acupuncture practitioners;*
- *(f) Review complaints;*
- *(g) Advise the board on continuing education programs;*
- *(h) Review the investigation of reports of complaints and recommend to the board whether disciplinary action should be taken;*
- *(i) Assist the board in promulgating administrative regulations necessary to carrying out the provisions of Sections 1 to 17 of this Act; and.*
- *(j) Perform other duties as directed by the board.*

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Before an acupuncture practitioner engages in the practice of acupuncture, he or she shall enter into a written collaborative agreement with a physician. The agreement shall be in accordance with administrative regulations promulgated by the board, and shall not exceed the scope of practice for acupuncture set out in Sections 1 to 17 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Before treating a patient, an acupuncture practitioner shall ask the patient whether he or she has been examined by a physician as defined in KRS 311.550 and a chiropractor as defined in KRS 312.015 concerning the patient's illness or injury. If the patient has been examined, the acupuncture practitioner shall review the physician's or chiropractor's diagnosis before initiating treatment.

(2) The acupuncture practitioner shall obtain informed consent from the patient and the practitioner shall disclose to the patient the following written information prior to or at the patient's initial visit:

- *(a) The practitioner's qualifications, including his or her education, license information, and the scope of practice of acupuncture, in the Commonwealth of Kentucky; and*
- *(b) The side effects of the treatment to be given, including any pain, bruising, infection, needle sickness, broken needles, or other injuries that may occur.*

(3) If the patient's circumstances warrant consultation, the practitioner shall obtain from the patient his or her written acknowledgment that the practitioner has advised the patient to consult with his or her primary care physician about the acupuncture treatment.

(4) Prior to engaging in the practice of acupuncture, the practitioner shall ask the patient if he or she has a pacemaker or bleeding disorder.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An acupuncture practitioner shall use sterilized needles in accordance with standards established by the National Centers for Disease Control and Prevention.

(2) An acupuncture practitioner shall comply with all applicable state and municipal reporting requirements imposed on health-care professionals regarding public health.

(3) An acupuncture practitioner shall maintain a record for each patient treated. The record for each patient shall include:

- *(a) A signed copy of the information disclosed by the practitioner to the patient under subsections (2) and (3) of Section 13 of this Act;*
- *(b) Evidence that the practitioner has conducted or overseen an interview concerning the patient's medical history and current physical condition;*
- *(c) Evidence of the practitioner having conducted a traditional acupuncture examination and diagnosis;*
- *(d) A record of the treatment, including the acupuncture points treated; and*
- *(e) The evaluation and instructions given.*

(4) An acupuncture practitioner may refer patients to other health-care practitioners and shall request a consultation or written diagnosis from a licensed physician if the patient has a potentially serious disorder, including, but not limited to:

- *(a) Hypertension and cardiac conditions;*

(b) Acute, severe abdominal pain;

(c) Acute, undiagnosed neurological changes;

(d) Unexplained weight loss or gain in excess of fifteen percent (15%) of the patient's body weight in less than a three (3) month period;

(e) Suspected fracture or dislocation;

(f) Suspected systemic infections;

(g) Serious diagnostic hemorrhagic disorder; and

(h) Acute respiratory distress without a previous history.

SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The initial licensing fee and renewal fee shall be set out in administrative regulations promulgated by the board, and each shall not exceed two hundred dollars ($200).

(2) Fees collected by the board under Sections 1 to 17 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for purposes of implementing Sections 1 to 17 of this Act. No part of the revolving fund shall revert to the general fund of this Commonwealth.

SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue, renew, suspend, revoke, or impose probationary conditions upon a license, impose an administrative fine, issue a written reprimand or admonishment, demand restitution, or any combination thereof regarding any licensee upon proof that the licensee has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license or in the reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of acupuncture;

(e) Violated any state statute or administrative regulation governing the practice of acupuncture or any activities undertaken by an acupuncture practitioner;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics as established by the board by administrative regulation; or

(h) Violated any applicable provision of any federal or state law.

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license upon a finding that the individual has complied with the terms prescribed by the board and is again able to competently engage in the practice of acupuncture.

(3) (a) The board may issue a written admonishment to the licensee, when in the judgment of the board:

1. An alleged violation is not of a serious nature; and

2. The evidence presented to the board after the investigation, including an appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur.

(b) A copy of the admonishment shall be placed in the permanent file of the licensee.

(c) The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file.

(d) The licensee may alternatively, within thirty (30) days of the admonishment's receipt, file a request for a hearing with the board.

(e) Upon receipt of a request for a hearing the board shall set aside the written admonishment and set the matter for a hearing under the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may, upon the agreement of the aggrieved party, use mediation to handle disciplinary matters. The board may appoint any member or members of the board, any staff member, or any other person or combination thereof to serve in the mediation process.

(6) The board may reconsider, modify, or reverse its disciplinary actions.

SECTION 17. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board, before suspending, revoking, imposing probationary or supervisory conditions upon a licensee, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensee under the provisions of Sections 1 to 17 of this Act, shall set the matter for a hearing under the provisions of KRS Chapter 13B.

(2) After denying an application under the provisions of Sections 1 to 17 of this Act or issuing a written admonishment, the board at the request of the aggrieved party, shall grant a hearing under the provisions of KRS Chapter 13B.

(3) Except for final orders denying an application for or renewal of licensure or emergency orders temporarily suspending, limiting, or restricting an acupuncture practitioner's license, all final orders of the board affecting an acupuncture practitioner's license shall become effective thirty (30) days after notice is given to the licensee, unless otherwise agreed. However, the board may provide that a final order be effective immediately if the board reasonably determines that the practitioner's patients or the general public would be endangered by delay.

(4) Any acupuncture practitioner who is aggrieved by a final order of the board denying a license or rendering disciplinary action against a licensee may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(5) The court shall not award injunctive relief against the board without providing the board the opportunity to be heard.

Section 18. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, ***the practice of acupuncture as defined in Section 1 of this Act,*** the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

Section 19. KRS 311.565 is amended to read as follows:

(1) The board may:

(a) Exercise all the administrative functions of the state~~[in the prevention of empiricism and]~~ in the regulation of the practice of medicine and osteopathy which shall include, but not be limited to, promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;

(b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;

(c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(e) Appoint a general counsel and assistant general counsel and fix their compensation;

(f) Appoint investigatory personnel and fix their compensation;

(g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;

(h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;

(i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;

(j) Promulgate a code of conduct governing the practice of medicine and osteopathy ***and the practice of acupuncture under Sections 1 to 17 of this Act***, which shall be based upon generally-recognized principles of professional ethical conduct;

(k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Gaint Committee of Preregistration Physician Training Programs, or any approved successors thereof;

(n) Issue and renew regular licenses to practice medicine or osteopathy ***or to practice acupuncture*** in accordance with KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act*** and any reasonable regulations of the board;

(o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;

(p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;

(q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(r) Prescribe the time, place, method, manner, scope, and content of examinations, but at least two (2) examinations shall be held annually;

(s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(t) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; and

(u) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-promulgated disciplinary regulation of the board.

(2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.

(3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

The Committee Substitute No. 1 to **HB 566** is as follows:

HB 566, AN ACT relating to acupuncture.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 17 of this Act:

(1) "Acupressure" means the application of pressure to acupuncture points;

(2) "Acupuncture needle" means a needle designed exclusively for acupuncture purposes. It has a solid core, with a tapered point and is twelve-hundredths (0.12) of one (1) millimeter to forty-five hundredths (0.45) of one (1) millimeter thick, and is constructed of stainless steel, gold, silver, or other board-approved material that can be sterilized according to the recommendations of the National Centers for Disease Control and Prevention;

(3) "Acupuncture points" means specific anatomically described locations as defined by the recognized acupuncture reference texts. The texts are listed in the study guide for the National Certification Commission for Acupuncture and Oriental Medicine certification examination;

(4) "Acupuncture practitioner" means a person licensed to practice acupuncture under Sections 1 to 17 of this Act;

(5) "Board" means the Board of Medical Licensure;

(6) "Breathing techniques" means breathing exercises taught to a patient as part of a treatment plan;

(7) "Cupping" means a therapy in which a jar-shaped instrument is attached to the skin and negative pressure is created by using suction;

(8) "Dermal friction" means rubbing on the surface of the skin using topical ointments with a smooth-surfaced instrument without a cutting edge that can be sterilized or, if disposable, used one (1) time only;

(9) "Electrical stimulation" means a method of stimulating acupuncture points by an electrical current of one-thousandth (.001) of one (1) milliamp to one hundred (100) milliamps, or other current as approved by the board. Electrical stimulation may be used transcutaneously without penetrating the skin;

(10) "Herbal supplemental therapies" means the use of herbs and patent herbal remedies as supplements as part of the treatment plan of the patient;

(11) "NCCAOM" means the National Certification Commission for Acupuncture and Oriental Medicine or its successor;

(12) "Needle sickness" means a temporary state of nausea and dizziness that is a potential side effect to needle insertion from which full recovery occurs when the needles are removed; and

(13) "Practice of acupuncture" means the insertion of needles, with or without accompanying electrical or thermal

stimulation at certain acupuncture points or, meridians on the surface of the human body for purposes of changing the flow of energy in the body and may include acupressure, cupping, moxibustion, Gwa Sha, exercise and breathing techniques, nutrition without the use of herbs unless in accordance with the Food and Drug Administration standards, and lifestyle change. The practice of acupuncture shall not include laser acupuncture, osteopathic manipulative treatment, chiropractic adjustments, physical therapy, surgery, or utilization of diagnostic tests and procedures.

SECTION 2. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person who engages in the practice of acupuncture shall be licensed. The license shall be conspicuously displayed in the licensed acupuncture practitioner's place of business.

(2) An acupuncture practitioner shall use the designation "licensed acupuncturist" or "L.Ac." following his or her name in all advertisements, professional literature, and billings used in connection with his or her practice. A person who is not licensed under Sections 1 to 17 of this Act shall not use any terms, words, abbreviations, letters, or insignia that indicates or implies that he or she is engaged in the practice of acupuncture.

(3) Any person who violates this section shall be guilty of a Class A misdemeanor.

SECTION 3. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The provisions of Sections 2 to 17 of this Act shall not apply to persons licensed, certified, or registered under any other provision of the Kentucky Revised Statutes, including but not limited to physicians, nurse practitioners, dentists, chiropractors, podiatrists, or students enrolled in accredited training programs in these professions. Nothing in Sections 2 to 17 of this Act shall be construed to limit, interfere, or restrict the practice, descriptions of services, or manner in which these persons hold themselves out to the public. Chiropractors who practice acupuncture shall be governed by the provisions of KRS Chapter 312.

(2) Nothing in Sections 1 to 17 of this Act shall be construed to apply to the activities and services of a student intern or trainee pursuing a program of studies in the practice of acupuncture in an institution approved by the board for teaching the practice of acupuncture if the person is designated an acupuncture intern or student in training and the intern's activities are performed under supervision and constitute a part of the supervised program of study.

(3) Nothing in Sections 1 to 17 of this Act shall be construed to apply to the activities of visiting acupuncturists in performing their duties as teachers at a board- approved institution or board-approved workshop or tutorial. As used in this subsection, "duties" means classroom instruction and does not include the provision of any services to a patient, demonstration of any services on a patient, or supervision of any services given to a patient.

(4) Nothing in Sections 1 to 17 of this Act shall prohibit a person who is not a licensed acupuncture practitioner from practicing specific noninvasive techniques that constitute the practice of acupuncture, as defined in Section 1 of this Act, such as acupressure, cupping, and dermal friction.

(5) Nothing in Sections 1 to 17 of this Act shall be construed to restrict the activities of a person not licensed under Sections 1 to 17 of this Act to engage in auricular acupuncture for the purpose of treating alcoholism, substance abuse, or chemical dependency if the person:

(a) Provides the board documentation of having successfully completed a board-approved training program in acupuncture for the treatment of alcoholism, substance abuse, or chemical dependency that meets or exceeds the standards of training set by the National Acupuncture Detoxification Association;

(b) Provides the board documentation of having successfully completed a clean needle technique course;

(c) Maintains the ethical standards of Sections 1 to 17 of this Act and administrative regulations promulgated by the board under Sections 1 to 17 of this Act; and

(d) Pays to the board a fee for the board's cost of registering the person and maintaining a register of persons under this section.

SECTION 4. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Prior to July 15, 2002, a person may qualify for provisional licensing on the basis of the person's experience if:

(a) He or she has engaged in the practice of acupuncture for at least three (3) of the past five (5) years with at least five hundred (500) patient visits with at least one hundred (100) different patients in each of the three (3) years;

(b) He or she provides documentation of having completed a "clean needle course" approved by the Acupuncture Advisory Council established by Section 11 of this Act;

(c) He or she provides at least four (4) of the following:

1. Letters from employers specifying the dates and hours worked, the nature of the practice, and the number of acupuncture patient visits;

2. Affidavits from a minimum of twenty (20) patients with current phone numbers and addresses for each, specifying the time, period, and nature of treatment;

3. Affidavits from two (2) other persons with personal knowledge regarding the dates, volume, scope, and type of practice;

4. Affidavits from at least two (2) of the following, other than those supplying information in subparagraphs 1. to 3. of this paragraph: health-care professionals, state or local acupuncture or Oriental medicine associations, and board-approved schools or colleges on the dates, volume, scope, and type of practice; or

5. Copies of patient records with all identifying information removed;

(d) He or she submits an application for licensure on forms provided by the board and pays all required fees;

(e) He or she signs an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief;

(f) He or she signs a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession; and

(g) He or she submits any other reasonable information the board may require.

(2) Any information provided under paragraphs (a) to (d) of subsection (1) of this section that is submitted in a foreign language shall be accompanied by an accurate translation in English. Each translated document shall bear the notarized affidavit of the translator certifying that the translator is competent in both the language of the original document and in English, and that the translation is a true and complete translation of the original document.

(3) Prior to July 30, 2002, an application for licensing under this section may be submitted to the board. A person may not apply for licensing under this section until he or she has completed all patient visits required under subsection (1)(a) of this section.

(4) The license shall expire one (1) year after the date of its issuance, and shall be nonrenewable. The board may issue a permanent license to an applicant who is issued a provisional license under this section if the applicant provides proof to the board that he or she is currently certified in accordance with NCCAOM requirements and meets other requirements as promulgated by the board in administrative regulations.

SECTION 5. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board, on the advice of the Acupuncture Advisory Council, may license a person by endorsement if:

(a) The person holds a current license or certificate as an acupuncturist from another jurisdiction;

(b) The person is in good standing in the other jurisdiction; and

(c) The board determines that the standards under which the person was initially certified or licensed in the other jurisdiction meet or exceed the requirements under Section 6 of this Act.

(2) The applicant for licensing under subsection (1) of this section shall also:

(a) Submit an application for licensure on forms provided by the board and pay all required fees;

(b) Sign an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief;

(c) Sign a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession; and

(d) Submit any other reasonable information the board may require.

SECTION 6. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person may be licensed as an acupuncture practitioner if the person:

(a) Submits an application for licensure on forms provided by the board and pays all required fees;

(b) Submits an official copy of the applicant's current NCCAOM certification;

(c) Signs an affidavit attesting that the information contained in the application is true and correct to the best of the applicant's knowledge and belief; and

(d) Signs a waiver authorizing the board to obtain access to the applicant's records in this state or in any state in which the applicant has practiced acupuncture or any health-care profession.

(2) The board may request the applicant to provide other reasonable information the board may require.

SECTION 7. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may request any reasonable information necessary to clarify whether the information submitted in the application under Section 4, 5, or 6 of this Act is complete and accurate. The board shall notify each applicant in writing of the action it takes on the application within one hundred twenty (120) days of the board's receipt of the completed application.

(2) If the board denies an application, it shall notify the applicant of the grounds on which the denial is based. The applicant may then request a hearing from the board in accordance with KRS Chapter 13B.

SECTION 8. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Any person licensed as an acupuncture practitioner shall annually, on or before June 1 of each year, pay to the board a renewal fee established by the board in administrative regulations. The renewal fee shall not exceed two hundred dollars ($200). A license that is not renewed by June 1 of each year shall expire for failure to renew in a timely manner.

(2) The board shall notify the licensee of the renewal date at the licensee's last known address. The notice shall include an application and notice of renewal fees. It shall be no excuse that the licensee did not receive the renewal notice.

(3) A sixty (60) day grace period shall be allowed after June 1 of each year during which the acupuncture practitioner may continue to practice. The acupuncture practitioner may renew his or her license upon payment of the renewal fee and a late renewal fee of fifty dollars ($50).

(4) Any license not renewed by the end of the grace period shall terminate, and the practitioner shall no longer be eligible to practice acupuncture in the Commonwealth. An individual with a terminated license may have his or her license reinstated upon payment of the renewal fee and a reinstatement fee as established by the board in administrative regulations. A person who applies for reinstatement shall not be required to take an examination as a condition of reinstatement if the person's reinstatement application is made within five (5) years of the date of termination.

(5) A suspended license shall expire and terminate if not renewed. Renewal of a suspended license shall not entitle the licensee to practice until the suspension has ended or the right to practice is restored by the board.

(6) A revoked license shall terminate and may not be renewed. If a revoked license is reinstated, the licensee shall pay the renewal fee and the reinstatement fee under subsections (1) and (3) of this section, respectively.

(7) If a person fails to reinstate his or her license within five (5) years of its termination, the license shall not be renewed, restored, reissued, or reinstated. The person shall obtain a new license under the conditions established in Section 6 of this Act.

(8) The board may require that a person applying for renewal or reinstatement of licensing complete continuing education requirements as established in administrative regulations promulgated by the board.

SECTION 9. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) A person licensed under Section 4, 5, or 6 of this Act may apply for inactive status upon submitting an application and paying an inactive status fee.

(2) An inactive license may be reactivated upon application to the board. If a license has been inactive for more than five (5) consecutive years, the licensee shall apply for a new license and shall meet all the requirements in existence for a license under Section 5 or 6 of this Act. That application for licensing shall require:

(a) Evidence of the certificate holder's payment of an inactive status fee; and

(b) Payment of the initial licensing fee..

SECTION 10. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

The board may issue a temporary permit to practice acupuncture to an applicant eligible for licensing if a complete application for licensure has been submitted and all fees have been paid, including a nonrefundable temporary permit fee. The temporary permit shall be nonrenewable and shall be effective only until the meeting of the board at which a decision is made on the applicant's application for licensing. The permit shall not be in effect for more than ninety (90) days.

SECTION 11. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established the Acupuncture Advisory Council under the Board of Medical Licensure. The council shall consist of eleven (11) members appointed by the Governor. Four (4) members shall be licensed acupuncture practitioners; one (1) member shall be a licensed physician or osteopath who also practices acupuncture; three (3) members, representing the University of Kentucky School of Medicine, the University of Louisville School of Medicine, and the Pikeville College School of Osteopathic Medicine, shall be licensed physicians or osteopaths who include the instruction of acupuncture in their curriculum; one (1) member shall be a member of the board; one (1) member shall be a licensed doctor of chiropractic; and one (1) member shall be a member of the public who shall not be associated with or financially interested in the practice of acupuncture. The original members shall be appointed as follows: three (3) members for a one (1) year term; three (3) members for a two (2) year term; three (3) members for a three (3) year term; and two (2) members for a four (4) year term. All members thereafter shall be appointed for a term of four (4) years. Any vacancy in the membership of the council shall be filled for the unexpired term by appointment of the Governor.

(2) Each member of the council shall receive one hundred dollars ($100) for each day of service actually given in carrying out the member's duties under this section and actual and necessary traveling, hotel, and contingent expenses incurred in attending the meetings of the council and performing its duties.

(3) The council shall annually elect a chairman and a secretary. The council shall hold at least two (2) meetings annually, and may hold additional meetings upon the call of the chairman or the written request of at least three (3) council members. The secretary shall keep a record of the minutes of the council's meeting. Six (6) members of the council shall constitute a quorum to conduct business.

(4) The Governor may remove any member for poor attendance at council meetings, neglect of duty, or malfeasance in office.

(5) (a) No later than six (6) months after the creation of the advisory council, the council shall:

1. Advise the board on the issuance, denial, suspension, or revocation of or restriction on licenses to practice acupuncture;

2. Advise the board on issues relating to the receipt, investigation, or conduct of hearings and the imposition of disciplinary actions in relation to complaints against persons engaging in the practice of acupuncture;

3. Advise the board on standards for acupuncture practitioners;

4. Advise the board on continuing education programs;

5. Assist the board in promulgating administrative regulations necessary to carry out the provisions of Sections 1 to 17 of this Act; and

6. Perform other duties as directed by the board.

(b) After the initial six (6) month period following the creation of the advisory council, the council shall have the ongoing responsibility to:

1. Advise the board on standards for acupuncture practitioners;

2. Advise the board on continuing education programs;

3. Assist the board in promulgating administrative regulations necessary to carry out the provisions of Sections 1 to 17 of this Act; and

4. Perform other duties as directed by the board.

SECTION 12. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

Before an acupuncture practitioner engages in the practice of acupuncture, he or she shall enter into a written collaborative agreement with a licensed physician actively practicing acupuncture or general medicine. The agreement shall be in accordance with administrative regulations promulgated by the board, and shall not exceed the scope of practice for acupuncture set out in Sections 1 to 17 of this Act.

SECTION 13. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) Before treating a patient, an acupuncture practitioner shall ask the patient whether he or she has been examined by a physician as defined in KRS 311.550 and a chiropractor as defined in KRS 312.015 concerning the patient's illness or injury. If the patient has been examined, the acupuncture practitioner shall review the physician's or chiropractor's diagnosis before initiating treatment.

(2) The acupuncture practitioner shall obtain informed consent from the patient and the practitioner shall disclose to the patient the following written information prior to or at the patient's initial visit:

(a) The practitioner's qualifications, including his or her education, license information, and the scope of practice of acupuncture, in the Commonwealth of Kentucky; and

(b) The side effects of the treatment to be given, including any pain, bruising, infection, needle sickness, broken needles, or other injuries that may occur.

(3) If the patient's circumstances warrant consultation, the practitioner shall obtain from the patient his or her written acknowledgment that the practitioner has advised the patient to consult with his or her primary care physician about the acupuncture treatment.

(4) Prior to engaging in the practice of acupuncture, the practitioner shall ask the patient if he or she has a pacemaker or bleeding disorder.

SECTION 14. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) An acupuncture practitioner shall use sterilized needles in accordance with standards established by the National Centers for Disease Control and Prevention.

(2) An acupuncture practitioner shall comply with all applicable state and municipal reporting requirements imposed on health-care professionals regarding public health.

(3) An acupuncture practitioner shall maintain a record for each patient treated. The record for each patient shall include:

(a) A signed copy of the information disclosed by the practitioner to the patient under subsections (2) and (3) of Section 13 of this Act;

(b) Evidence that the practitioner has conducted or overseen an interview concerning the patient's medical history and current physical condition;

(c) Evidence of the practitioner having conducted a traditional acupuncture examination and diagnosis;

(d) A record of the treatment, including the acupuncture points treated; and

(e) The evaluation and instructions given.

(4) If the patient has a potentially serious disorder, an acupuncture practitioner shall refer the patient to another health-care practitioner and shall request a consultation or written diagnosis. For purposes of this subsection, "potentially serious disorder" means:

(a) Hypertension and cardiac conditions;

(b) Acute, severe abdominal pain;

(c) Acute, undiagnosed neurological changes;

(d) Unexplained weight loss or gain in excess of fifteen percent (15%) of the patient's body weight in less than a three (3) month period;

(e) Suspected fracture or dislocation;

(f) Suspected systemic infections;

(g) Serious diagnostic hemorrhagic disorder; and

(h) Acute respiratory distress without a previous history.

SECTION 15. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The initial licensing fee and renewal fee shall be set out in administrative regulations promulgated by the board, and each shall not exceed two hundred dollars ($200).

(2) Fees collected by the board under Sections 1 to 17 of this Act shall be deposited in the State Treasury to the credit of a revolving fund for purposes of implementing Sections 1 to 17 of this Act. No part of the revolving fund shall revert to the general fund of this Commonwealth.

SECTION 16. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board may refuse to issue, renew, suspend, revoke, or impose probationary conditions upon a license, impose an administrative fine, issue a written reprimand or admonishment, demand restitution, or any combination thereof regarding any licensee upon proof that the licensee has:

(a) Committed any act of dishonesty or corruption. If the act constitutes a crime, conviction in a criminal proceeding is not a condition precedent to disciplinary action. Upon conviction of the crime, the judgment and sentence are presumptive evidence at the ensuing disciplinary hearing of the guilt of the licensee or applicant. Conviction includes all instances in which a plea of no contest is the basis of the conviction;

(b) Misrepresented or concealed a material fact in obtaining a license or in the reinstatement thereof;

(c) Committed any unfair, false, misleading, or deceptive act or practice;

(d) Been incompetent or negligent in the practice of acupuncture;

(e) Violated any state statute or administrative regulation governing the practice of acupuncture or any activities undertaken by an acupuncture practitioner;

(f) Failed to comply with an order issued by the board or an assurance of voluntary compliance;

(g) Violated the code of ethics as established by the board by administrative regulation;

(h) Violated any applicable provision of any federal or state law;

(i) Engaged in sexual contact with a patient during the professional relationship;

(j) Departed from or failed to conform to the standards of acceptable and prevailing acupuncture practice;

(k) Been convicted of a felony offense, or of a misdemeanor offense that involves moral turpitude; or

(l) Violated any agreed board order relating to the licensee.

(2) Five (5) years from the date of a revocation, any person whose license has been revoked may petition the board for reinstatement. The board shall investigate the petition and may reinstate the license, consistent with KRS 311.607, upon a finding that the individual has complied with the terms prescribed by the board and is again able to competently engage in the practice of acupuncture.

(3) (a) The board may issue a written admonishment to the licensee, when in the judgment of the board:

1. An alleged violation is not of a serious nature; and

2. The evidence presented to the board after the investigation, including an appropriate opportunity for the licensee to respond, provides a clear indication that the alleged violation did in fact occur.

(b) A copy of the admonishment shall be placed in the permanent file of the licensee.

(c) The licensee shall have the right to file a response to the admonishment within thirty (30) days of its receipt and to have the response placed in the permanent licensure file.

(d) The licensee may alternatively, within thirty (30) days of the admonishment's receipt, file a request for a

hearing with the board.

(e) Upon receipt of a request for a hearing the board shall set aside the written admonishment and set the matter for a hearing under the provisions of KRS Chapter 13B.

(4) At any time during the investigative or hearing processes, the board may enter into an agreed order or accept an assurance of voluntary compliance with the licensee which effectively deals with the complaint.

(5) The board may, upon the agreement of the aggrieved party, use mediation to handle disciplinary matters. The board may appoint any member or members of the board, any staff member, or any other person or combination thereof to serve in the mediation process.

(6) The board may reconsider, modify, or reverse its disciplinary actions.

SECTION 17. A NEW SECTION OF KRS CHAPTER 311 IS CREATED TO READ AS FOLLOWS:

(1) The board, before suspending, revoking, imposing probationary or supervisory conditions upon a licensee, imposing an administrative fine, issuing a written reprimand, or any combination of these actions regarding any licensee under the provisions of Sections 1 to 17 of this Act, shall set the matter for a hearing under the provisions of KRS Chapter 13B.

(2) After denying an application under the provisions of Sections 1 to 17 of this Act or issuing a written admonishment, the board at the request of the aggrieved party, shall grant a hearing under the provisions of KRS Chapter 13B.

(3) Except for final orders denying an application for or renewal of licensure or emergency orders temporarily suspending, limiting, or restricting an acupuncture practitioner's license, all final orders of the board affecting an acupuncture practitioner's license shall become effective thirty (30) days after notice is given to the licensee, unless otherwise agreed. However, the board may provide that a final order be effective immediately if the board reasonably determines that the practitioner's patients or the general public would be endangered by delay.

(4) Any acupuncture practitioner who is aggrieved by a final order of the board denying a license or rendering disciplinary action against a licensee may seek judicial review of the order by filing a petition with the Circuit Court of the county in which the board's offices are located in accordance with KRS Chapter 13B.

(5) The court shall not award injunctive relief against the board without providing the board the opportunity to be heard.

Section 18. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, *the practice of acupuncture as defined in Section 1 of this Act,* the performance of duties for which they have been trained by emergency medical technicians or medical emergency dispatchers certified by the Cabinet for Health Services, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet

for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

Section 19. KRS 311.565 is amended to read as follows:

(1) The board may:

(a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy which shall include, but not be limited to, promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;

(b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;

(c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(e) Appoint a general counsel and assistant general counsel and fix their compensation;

(f) Appoint investigatory personnel and fix their compensation;

(g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;

(h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;

(i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;

(j) Promulgate a code of conduct governing the practice of medicine and osteopathy ***and the practice of acupuncture under Sections 1 to 17 of this Act***, which shall be based upon generally-recognized principles of professional ethical conduct;

(k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Gaint Committee of Preregistration Physician Training Programs, or any approved successors thereof;

(n) Issue and renew regular licenses to practice medicine or osteopathy ***or to practice acupuncture*** in accordance with KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act*** and any reasonable regulations of the board;

(o) Issue and renew, or refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;

(p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;

(q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620 ***and Sections 1 to 17 of this Act***;

(r) Prescribe the time, place, method, manner, scope, and content of examinations, but at least two (2) examinations shall be held annually;

(s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(t) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits; and

(u) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-promulgated disciplinary regulation of the board.

(2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.

(3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Section 20. KRS 312.019 is amended to read as follows:

(1) The board shall administer the provisions of this chapter and the administrative regulations promulgated by the board relating to the practice of chiropractic.

(2) The board shall pass upon the qualifications of applicants for a license, certification, or registration to practice chiropractic. It shall examine, license, certify, register, and renew the license, certification, or registration of duly qualified applicants.

(3) The board may deny, revoke, refuse to renew, or suspend any license, certification, or registration issued by it.

(4) The board shall adopt a seal which shall be affixed to all licenses, certifications, and registrations issued by the board and to such other documents as the board deems necessary.

(5) The board shall regulate the practice of chiropractic by persons licensed or certified by it and shall enforce the provisions of this chapter and the administrative regulations of the board. The board may investigate violations and cause the prosecution of persons violating the provisions of this chapter or the administrative regulations promulgated by the board.

(6) The board may employ such personnel and incur such expenses as may be necessary for the performance of its duties and the enforcement of this chapter.

(7) The board may prescribe and collect reasonable fees for the issuance and renewal of licenses, certifications, and registrations and the administration of examinations as provided in KRS 312.095 and 312.175.

(8) The board may inspect at all reasonable times any chiropractic office or place where chiropractic services are performed.

(9) The board may promulgate and from time to time amend administrative regulations, consistent with the provisions of this chapter and in accordance with the provisions of KRS Chapter 13A, governing the practice of chiropractic and the diagnosis and treatment of patients, the enforcement of this chapter and the proper performance of its duties, including but not limited to:

(a) A code of ethical conduct governing the practice of chiropractic;

(b) Requirements, standards, and examinations to determine the moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and certifications;

(c) Matters pertaining to the content and conduct of examinations;

(d) Matters pertaining to the operation and registration of chiropractic clinics;

(e) Matters pertaining to the practice and certification of chiropractic specialties by licensed doctors of chiropractic;

(f) The type and character of postgraduate study to be done by any licensee in order to comply with the provisions of KRS 312.175;

(g) Regulation of forms of advertising or solicitation that are false, misleading, or deceptive or otherwise in violation of this chapter. The board may require a seventy-two (72) hour rescission period for consumers responding to certain forms of solicitation or advertising proposing or offering a series or course of treatments. The board may require that advertisements or solicitations stating coverage available from third-party payors include a conspicuous notice that persons may be required to submit to an independent evaluation which may result in a determination that the all or part of the services are unreasonable or unnecessary;

(h) Establishing a recommended course of pre-chiropractic education to be completed prior to entry into chiropractic college and the establishment of a preceptorship program for students enrolled in accredited chiropractic colleges that conform to KRS 312.085 to meet the standards of accreditation of the Council on Chiropractic Education.

(i) Registration and regulation of chiropractic management consultants operating in Kentucky. The board may impose annual registration fees not to exceed two hundred dollars ($200); and

(j) Establishing minimum standards for recordkeeping in chiropractic offices, the issuance of itemized statements, and requiring that any record or report include the name of the treating chiropractor.

(10) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a chiropractor licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure the process does not revictimize the alleged victim or cause harm if a chiropractor is falsely accused.

(11) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, the characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

(12) The board may promulgate an administrative regulation in accordance with KRS Chapter 13A to establish guidelines or standards relating to the use of acupuncture within the scope of chiropractic practice.

HB 667, AN ACT relating to mental health.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 202A.028 is amended to read as follows:

(1) Following an examination by a qualified mental health professional and a certification by that professional that the person meets the criteria for involuntary hospitalization, a judge may order the person hospitalized for a period not to exceed seventy-two (72) hours, excluding weekends and holidays. For the purposes of this section, the qualified mental health professional shall be a staff member of a regional community mental health or mental retardation program***, unless the person to be examined is hospitalized and under the care of a licensed psychiatrist, in which case the qualified mental health professional shall be the psychiatrist if the psychiatrist is ordered, subject to the court's discretion, to perform the required examination***.

(2) Any person who has been admitted to a hospital under subsection (1) of this section shall be released from the hospital within seventy-two (72) hours, excluding weekends and holidays, unless further held under the applicable provisions of this chapter.

(3) Any person admitted to a hospital under subsection (1) of this section or transferred to a hospital while ordered hospitalized under subsection (1) of this section shall be transported from the person's home county by the sheriff of that county or other peace officer as ordered by the court. The sheriff or other peace officer may, upon agreement of a person authorized by the peace officer, authorize the cabinet, a private agency on contract with the cabinet, or an ambulance service designated by the cabinet to transport the person to the hospital. The transportation costs of the sheriff, other peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation promulgated by the cabinet, pursuant to KRS Chapter 13A.

(4) Any person released from the hospital under subsection (2) of this section shall be transported to the person's county of discharge by a sheriff or other peace officer, by an ambulance service designated by the cabinet, or by other appropriate means of transportation which is consistent with the treatment plan of that person. The transportation cost of transporting the patient to the patient's county of discharge when performed by a peace officer, ambulance service, or other private agency on contract with the cabinet shall be paid by the cabinet in accordance with an administrative regulation issued by

the cabinet pursuant to KRS Chapter 13A.

(5) No person who has been held under subsection (1) of this section shall be held in jail pending evaluation and transportation to the hospital.

HB 771, AN ACT relating to public health departments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.005 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky recognizes and hereby declares that it is an essential function, duty, and responsibility of the government of this Commonwealth to adequately safeguard the health of all its citizens, and to establish, maintain, implement, promote, and conduct appropriate facilities and services for the purpose of protecting the public health. This chapter is enacted with the expressed legislative intention of effectuating the aforesaid objectives in the manner provided herein.

(2) The Department for Public Health shall develop and operate all programs for assessing the health status of the population, for the promotion of health, and for the prevention of disease, injury, disability, and premature death. To accomplish these goals, the department shall:

- ***(a) Collect public health information from county health departments, district health departments, city-county health departments, local health departments, independent health departments, and other authorized sources of health data necessary to assess the health status of citizens of the Commonwealth;***
- ***(b) Identify health risks; and***
- ***(c) Establish policies for reducing the health risks through communicable disease control, public health education, and public health emergency response activities.***

(3) The services provided by the Department for Public Health and all local health departments established under KRS Chapter 212 shall include, but not be limited to:

- ***(a) Enforcement of public health regulations;***
- ***(b) Surveillance of public health;***
- ***(c) Communicable disease control;***
- ***(d) Public health education;***
- ***(e) Implementation of public health policy;***
- ***(f) Efforts directed to population risk reduction; and***
- ***(g) Disaster preparedness.***

(4) The Department for Public Health and all local health departments established under KRS Chapter 212 may assure the availability of personal preventive services to persons with no alternative source for these services to the extent that funds are appropriated for this purpose.

(5) The department shall have all powers necessary to carry out and effectuate the purposes of this section.

(6) The department shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the provisions of this section.

Section 2. This Act may be cited as the Kentucky Core Public Health Act.

HB 843, AN ACT relating to mental health and substance abuse, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) National initiatives, including the 1999 White House Conference on Mental Health and the 1999 United States Surgeon General's Report on Mental Health, have promoted the concept that mental health is fundamental to health care.

(2) It has been found that:

- ***(a) The leading causes of disability for individuals age five (5) and older are mental disorders;***
- ***(b) The current mental health and substance abuse system is lacking a comprehensive state plan that would improve the mental health status of the citizens of the Commonwealth; and***
- ***(c) It is necessary to require long-range planning for mental health and substance abuse services.***

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House; and

(l) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members shall serve during their terms of office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The commission created in Section 2 of this Act shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of the effective date of this Act. The commission shall meet at least biennially thereafter, or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall receive, integrate, and report, as required by subsection (5) of this section, the findings and recommendations of the regional planning councils established under Section 4 of this Act.

(3) The commission shall serve in an advisory capacity to accomplish the following:

(a) Based on information provided under subsection (2) of this section:

1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities, and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other providers;

(b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;

(c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing community resources;

(d) Develop recommendations to decrease the incidence of multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and

(e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

(4) The commission shall develop a comprehensive state plan that will provide a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses.

(5) Within six (6) months after receiving reports and recommendations from the regional planning councils established under Section 4 of this Act, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly. The state plan shall:

(a) Advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses; and

(b) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation for the 2002 General Assembly.

(6) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

(7) The commission shall cease to exist four (4) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.

(2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

(a) Family members of adults and children with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) Consumers of mental health and substance abuse services;

(c) County officials and business leaders;

(d) Health departments and primary care physicians;

(e) Advocates and community organizations;

(f) Educators and school personnel;

(g) Regional interagency councils established under KRS Chapter 200;

(h) Law enforcement and court personnel;

(i) Public and private facilities that provide services for mental health and substance abuse in the region representing inpatient services, outpatient services, residential services, and community-based supportive housing programs; and

(j) Individuals who provide mental health and substance abuse services in the region.

SECTION 5. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance abuse treatment delivery system;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide; and

4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(d) Identify funding needs;

(e) Evaluate the access of children and youth to mental health and substance abuse services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies;

(f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services;

(g) Recommend an effective quality assurance and consumer satisfaction monitoring program; and

(h) Make recommendations on each subsection of this section to the commission established under Section 2 of this Act within eight (8) months of the effective date of this Act. These recommendations may be incorporated into the regional annual plans required by KRS 210.400.

(3) The regional councils shall cease to exist four (4) years after the effective date of this Act unless otherwise authorized by the General Assembly.

Section 6. To carry out the provisions of Sections 2 and 3 of this Act, there is appropriated to the Cabinet for Health Services, Department for Mental Health and Mental Retardation, out of the general fund the sum of $15,000 for the fiscal year 2000-2001 and $15,000 for the fiscal year 2001-2002. To carry out the provisions of Section 4 of this Act, there is appropriated to the regional mental health and mental retardation boards through the Department for Mental Health and Mental Retardation the sum of $140,000 for fiscal year 2000-2001 and $140,000 for fiscal year 2001-2002. Funds not expended in fiscal year 2000-2001 may be carried over to fiscal year 2001-2002.

Section 7. Whereas there exists a critical need to conduct a timely comprehensive review of the mental health and substance abuse treatment service delivery system, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Substitute No. 1 to **HB 843** is as follows:

HB 843, AN ACT relating to mental health and substance abuse, making an appropriation therefor, and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

The General Assembly of the Commonwealth of Kentucky hereby finds and declares that:

(1) National initiatives, including the 1999 White House Conference on Mental Health and the 1999 United States Surgeon General's Report on Mental Health, have promoted the concept that mental health is fundamental to health care.

(2) It has been found that:

(a) The leading causes of disability for individuals age five (5) and older are mental disorders;

(b) The current mental health and substance abuse system is lacking a comprehensive state plan that would improve the mental health status of the citizens of the Commonwealth; and

(c) It is necessary to require long-range planning for mental health and substance abuse services.

SECTION 2. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentucky Commission on Services and Supports for Individuals with Mental Illness, Alcohol and Other Drug Abuse Disorders, and Dual Diagnoses. The commission shall consist of:

(a) The secretary of the Cabinet for Health Services;

(b) The secretary of the Cabinet for Families and Children;

(c) The secretary of the Justice Cabinet;

(d) The commissioner of the Department for Mental Health and Mental Retardation Services;

(e) The commissioner of the Department for Medicaid Services;

(f) The commissioner of the Department of Corrections;

(g) The commissioner of the Department of Juvenile Justice;

(h) The commissioner of the Department of Education;

(i) The commissioner of the Department of Vocational Rehabilitation;

(j) The director of the Protection and Advocacy Division of the Public Protection and Regulation Cabinet;

(k) Three (3) members of the House of Representatives who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Speaker of the House; and

(l) Three (3) members of the Senate who are members of the Health and Welfare Committee or the Appropriations and Revenue Committee, appointed by the Senate President.

(2) The secretary of the Cabinet for Health Services and one (1) member of the General Assembly appointed to the commission shall serve as co-chairs of the commission.

(3) Members shall serve during their terms of office.

SECTION 3. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The commission created in Section 2 of this Act shall meet as often as necessary to accomplish its purpose but shall meet at least quarterly during the 2000-2001 biennium, and the first meeting shall be held within six (6) months of the effective date of this Act. The commission shall meet at least biennially thereafter, or upon the call of either co-chair, the request of four (4) or more members, or the request of the Governor.

(2) The commission shall receive, integrate, and report, as required by subsection (5) of this section, the findings and recommendations of the regional planning councils established under Section 4 of this Act.

(3) The commission shall serve in an advisory capacity to accomplish the following:

(a) Based on information provided under subsection (2) of this section:

1. Assess the needs statewide of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

2. Assess the capabilities of the existing statewide treatment delivery system including gaps in services and the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities, and the roles of the Department for Mental Health and Mental Retardation and the regional community mental health centers, state hospitals, and other providers;

(b) Identify funding needs and related fiscal impact, including Medicaid reimbursement, limitations under government programs and private insurance, and adequacy of indigent care;

(c) Recommend comprehensive and integrated programs for providing mental health and substance abuse services and preventive education to children and youth, utilizing community resources;

(d) Develop recommendations to decrease the incidence of multiple hospitalizations of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses; and

(e) Recommend an effective quality assurance and consumer satisfaction monitoring program that includes recommendations as to the appropriate role of persons with mental illness, alcohol and other drug abuse disorders, and dual diagnoses, family members, providers, and advocates in quality assurance efforts.

(4) The commission shall develop a comprehensive state plan that will provide a template for decision-making regarding program development, funding, and the use of state resources for delivery of the most effective continuum of services in integrated statewide settings appropriate to the needs of the individual with mental illness, alcohol and other drug abuse disorders, and dual diagnoses.

(5) Within six (6) months after receiving reports and recommendations from the regional planning councils established under Section 4 of this Act, the co-chairs of the commission shall present the plan to the Governor and the members of the General Assembly. The state plan shall:

(a) Advise the Governor and the General Assembly concerning the needs statewide of individuals with mental illness, alcohol and other drug disorders, and dual diagnoses; and

(b) Advise the Governor and the General Assembly on whether the recommendations should be implemented by administrative regulations or proposed legislation for the 2002 General Assembly.

(6) The commission shall review the plan annually and shall submit annual updates no later than October 1 to the Governor and the Legislative Research Commission.

(7) The commission shall cease to exist four (4) years after the effective date of this Act unless otherwise reauthorized by the General Assembly.

SECTION 4. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The regional community mental health-mental retardation boards established under KRS 210.370 shall institute regional planning councils for the purpose of conducting assessment and strategic planning. The councils shall be attached to the community mental health-mental retardation boards for administrative purposes.

(2) A member of the regional community mental health-mental retardation board shall serve as chair of the regional planning council.

(3) The board shall issue invitations to join the council to no less than two (2) representatives of each of the following groups:

(a) Family members of adults and children with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) Consumers of mental health and substance abuse services;

(c) County officials and business leaders;

(d) Health departments and primary care physicians;

(e) Advocates and community organizations;

(f) Educators and school personnel;

(g) Regional interagency councils established under KRS Chapter 200;

(h) Law enforcement and court personnel;

(i) Public and private facilities that provide services for mental health and substance abuse in the region representing inpatient services, outpatient services, residential services, and community-based supportive housing programs; and

(j) Individuals who provide mental health and substance abuse services in the region.

SECTION 5. A NEW SECTION OF KRS CHAPTER 210 IS CREATED TO READ AS FOLLOWS:

(1) The regional planning councils shall meet as often as necessary to accomplish their purpose.

(2) The regional planning councils shall:

(a) Assess in the region the needs of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(b) 1. Study the regional mental health and substance abuse treatment delivery system;

2. Assess the capacity of and gaps in the existing system, including the adequacy of a safety net system; and

3. Assess the coordination and collaboration of efforts between public and private facilities and entities;

(c) Develop a regional strategy to increase access to community-based services and supports for individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses. The strategies may include:

1. Exploration of the use of community-based treatment programs;

2. Access to and funding for the most effective medications;

3. Promotion of family and consumer support groups statewide; and

4. Reduction of instances of criminalization of individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses;

(d) Identify funding needs;

(e) Evaluate the access of children and youth to mental health and substance abuse services and preventive programs within the region, including but not limited to those provided by schools, family resource and youth services centers, public and private mental health and substance abuse providers and facilities, physical health care providers and facilities, the faith community, and community agencies;

(f) Collect and evaluate data regarding individuals with mental illness, alcohol and other drug abuse disorders, and dual diagnoses who experience repeated hospital admissions, involvement with law enforcement, courts, and the judicial system, and repeated referrals from hospitals to community-based services;

(g) Recommend an effective quality assurance and consumer satisfaction monitoring program; and

(h) Make recommendations on each subsection of this section to the commission established under Section 2 of this Act within eight (8) months of the effective date of this Act. These recommendations may be incorporated into the regional annual plans required by KRS 210.400.

(3) The regional councils shall cease to exist four (4) years after the effective date of this Act unless otherwise authorized by the General Assembly.

Section 6. Whereas there exists a critical need to conduct a timely comprehensive review of the mental health and substance abuse treatment service delivery system, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming law.

The Committee Amendment No. 1 Title to **HB 843** is as follows:

By amending the title to read as follows:
"AN ACT relating to mental health and substance abuse and declaring an emergency.".

HB 886, AN ACT relating to optometrists.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 320.210 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Board" means the Kentucky Board of Optometric Examiners;

(2) "Practice of optometry" means*:*

(a) The employment of any means including the administration of pharmaceutical agents, except controlled substances classified in Schedules I and II, as authorized in KRS 320.240, except surgery in examination, diagnosis, and treatment of the human eye and its appendages, to determine the visual efficiency of the human eye, or to determine the powers or defects of vision, provided that superficial foreign bodies may be removed from the eye and its appendages;

(b) The prescribing, providing, furnishing, adapting, using, or employing lenses, prisms, contact lenses, visual training, orthoptics, ocular exercise, ***autofractometry,*** or any other means or device including pharmaceutical agents, except controlled substances classified in Schedules I and II, as authorized in KRS 320.240, excluding the use of surgery for the aid, relief, or correction of the human eye and its appendages; ***and***

(c) Low vision rehabilitation;

(3) "Appendages" means the eyelids, the eyebrows, the conjunctiva, and the lacrimal apparatus;

(4) "Visual aid glasses" means eyeglasses, spectacles, or lenses designed or used to correct visual defects; provided, however, that nothing in the provisions of this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of sunglasses designed and used solely to filter out light; and further provided that nothing in this chapter relating to the practice of optometry shall be construed to limit or restrict, in any respect, the sale of completely assembled eyeglasses or spectacles designed and used solely to magnify;[~~ and~~]

(5) ***"***[~~An ~~]Orthoptic technician***" means***[~~ is~~] a person who trains and directs individuals to engage in ocular exercises designed to correct visual defects, and shall not be required to be licensed under the provisions of this chapter ***if***[~~provided that~~] such training and directions are done pursuant to and under the instructions of a duly-licensed physician, osteopath, or optometrist and consists solely of visual training, orthoptics, or ocular exercises***; and***

(6) "Low vision rehabilitation" means the evaluation, diagnosis, and management of the low vision patient, including but not limited to, prescription, low vision rehabilitation therapy, education, and interdisciplinary consultation when indicated. Any person who prescribes or provides comprehensive low vision care for the rehabilitation and treatment of the visually impaired or legally blind patient; prescribes corrective eyeglasses, contact lenses, prisms, or filters; employs any means for the adaptation of lenses, low vision devices, prisms, or filters; evaluates the need for, recommends, or prescribes optical, electronic, or other low vision devices; or recommends or provides low vision rehabilitation services independent of a clinical treatment plan prescribed by an optometrist, physician, or osteopath is engaged in the practice of optometry.

Section 2. KRS 320.220 is amended to read as follows:

(1) No person shall practice optometry in this Commonwealth or hold himself ***or herself*** out as being able[~~ so~~] to do ***so*** unless he ***or she*** is the holder of a license duly issued to him ***or her*** by the board and registered in the manner provided by KRS 320.290.

(2) ***A***[~~Such~~] license to practice optometry shall not be required by physicians or osteopaths ***currently***[~~regularly~~] licensed to practice medicine or osteopathy at any place in the Commonwealth of Kentucky.

(3) Nothing in this chapter shall be construed to prohibit persons from fitting, adjusting, or dispensing visual aid glasses or other lenses or appurtenances ***if the***[~~; provided, that such~~] fitting, adjusting or dispensing is done upon the written prescription of a ***currently***[~~regularly~~] licensed optometrist, physician or osteopath, ***nor shall this chapter be construed***[~~or~~] as requiring ***these***[~~such~~] persons to be licensed under this chapter.

Section 3. KRS 320.230 is amended to read as follows:

(1) The Kentucky Board of Optometric Examiners shall consist of five (5) members appointed by the Governor. Four (4) members shall be ***Kentucky licensed*** practicing optometrists ***whose licenses are in good standing and who are***[~~well grounded in the practice of optometry~~] appointed by the Governor from a list containing three (3) names for each appointment recommended by the Kentucky Optometric Association. One (1) member shall be a citizen at large who is not associated with or financially interested in the practice or business regulated. The members shall serve for a term of four (4) years and until their successors are appointed and[~~ have~~] qualified. They shall receive per diem compensation to be determined by ***administrative regulations promulgated by***[~~regulation of~~] the board, [~~but ~~]not to exceed one hundred twenty-five dollars ($125) per day for attending board meetings.[~~ and~~] Members shall be reimbursed for actual expenses incurred in the performance of their duties under this chapter.

(2) Each optometrist member shall be ***a Kentucky***[~~well grounded in the theory and practice of the profession of optometry and shall have been an actual resident and~~] licensed practicing optometrist ***in good standing***[~~of this state~~] for not less than five (5) years immediately preceding his ***or her*** appointment to the board. ***The member***[~~He~~] shall not be in any way connected with or interested in any optometric school, college, or institution of learning or optometric supply business.

(3) Any vacancy occurring on the board as the result of a member not completing the term for which he ***or she*** was appointed shall be filled, for the unexpired term, in the same manner as is provided in subsection (1) of this section for the appointment of members.

(4) A majority of the members of the board shall constitute a quorum for the transaction of business.

Section 4. KRS 320.240 is amended to read as follows:

(1) The board shall meet at least once each year at which time it shall choose from among its members the president, vice president, and secretary-treasurer. In addition, the board, upon call of its officers, may hold meetings at any time as it deems necessary.[~~ The secretary-treasurer shall keep~~] A full record of ***the board's***[~~its~~] proceedings[~~ which~~] shall be ***kept in the office of the board and shall be*** open to inspection at all reasonable times.

(2) The board shall keep a register containing the name, address, and license number of every person licensed to practice optometry in this state.

(3) The Attorney General shall render to the board legal services as it may require in carrying out and enforcing the provisions of this chapter.

(4) Subject to and consistent with the provisions of this chapter, the board shall[~~ make and~~] promulgate reasonable administrative regulations and do any and all things ***that***[~~which~~] it may deem necessary or proper for the effective enforcement of this chapter and for the full and efficient performance of its duties hereunder and the reasonable regulation of the profession of optometry and the practice thereof by licensed optometrists.

(5) The board shall have a common seal.

(6) The board ***may***[~~shall have authority to~~] administer oaths and[~~ to~~] require the attendance of witnesses, the production of books, records, and papers pertinent to any matters coming before the board by the issuance of process ***that***[~~which~~] shall be served and returned in the same manner as in civil actions and for the disobedience of which the board shall have the power to invoke the same rights as are provided ***for***[~~in the event of~~] disobedience of a subpoena or subpoena duces tecum in a civil action.

(7) The board shall ***promulgate***[~~make~~] administrative regulations ***necessary to regulate and control all matters set forth in***[~~governing applicants and applications for registration or license under~~] this chapter[~~ and governing the conduct of licensing examinations~~].

(8)[~~ The board shall from time to time accredit schools and colleges teaching optometry, the graduates of which shall be eligible to licensing examinations.~~

~~(9)~~] The board shall have the right to determine what acts on the part of any person licensed as an optometrist in this state shall constitute unprofessional conduct under this chapter.

(9)[~~(10)~~] The board ***may***[~~shall have authority to~~] assist in the prosecution of any violation of this chapter and in the enforcement of any of the provisions of this chapter.

(10)[~~(11)~~] The board shall have other powers and duties as may be provided in the provisions of this chapter.

(11)[~~(12)~~] The board shall[~~ make a~~] report[~~ of~~] its proceedings to the Governor on or about January 1 of each year, including an accounting of all moneys received and disbursed.

(12)[~~(13)~~] The board may ***permit***[~~authorize~~] persons engaging in the practice of optometry under the provisions of this chapter to administer diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics applied topically only, but excluding any drug classified as a controlled substance pursuant to KRS Chapter 218A. These pharmaceutical agents shall be applied in diagnostic procedures only as part of an eye examination. The application of ***the***[~~such~~] diagnostic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pharmacology, with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye, from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education.

(13)[~~(14)~~] The board may authorize only those persons who have qualified for use of diagnostic pharmaceutical agents as set out in subsection (13) of this section to utilize and prescribe therapeutic pharmaceutical agents in the examination or treatment of any condition of the eye or its appendages. Any therapeutically-certified optometrist licensed under the provisions of this subsection shall be authorized to prescribe oral medications except controlled substances classified in Schedules I and II for any condition which an optometrist is authorized to treat under the provisions of this chapter and to use injections to administer benadryl, epinephrine, or equivalent medication to counteract anaphylaxis or anaphylactic reaction. The authority to prescribe a Schedule III, IV, or V controlled substance shall be limited to prescriptions for a quantity sufficient to provide treatment for up to seventy-two (72) hours. No refills of prescriptions for controlled substances shall be allowed. The utilization or prescribing of therapeutic pharmaceutical agents shall be limited to those persons who have sufficient education and professional competence as determined by the board and who have earned transcript credits of at least six (6) semester hours in a course or courses in general and ocular pathology and therapy, with particular emphasis on utilization of therapeutic pharmaceutical agents from a college or university accredited by a regional or professional accreditation organization which is recognized or approved by the council on postsecondary accreditation or by the United States Department of Education. These six (6) semester hours are in addition to the six (6) semester hours required by subsection (13) of this section, making a total of twelve (12) semester hours.

(14)[~~(15)~~] Any optometrist authorized by the board to utilize diagnostic pharmaceutical agents shall be permitted to purchase for use in the practice of optometry diagnostic pharmaceutical agents limited to miotics for emergency use only, mydriatics, cycloplegics, and anesthetics to be applied topically only. Any optometrist authorized by the board to utilize therapeutic pharmaceutical agents shall be permitted to prescribe in the practice of optometry therapeutic pharmaceutical agents. Optometrists so authorized by the board to purchase pharmaceutical agents shall obtain them from licensed drug suppliers or pharmacists on written orders placed in the same or similar manner as any physician or other practitioner authorized by KRS Chapter 217. Purchases shall be limited to those pharmaceutical agents specified in this subsection and in subsection (13) of this section, based upon the authority conferred upon the optometrist by the board consistent with the educational qualifications of the optometrist as set out herein.[~~ All purchases of pharmaceutical drugs by optometrists shall be upon purchase order forms approved by the board.~~]

Section 5. KRS 320.250 is amended to read as follows:

(1) Licenses to engage in the practice of optometry shall be issued only to those who qualify[~~ therefor~~] under the provisions of KRS 320.260 or 320.270, or who successfully pass examinations conducted ***or approved by***[~~under the direction of~~] the board at a time and place fixed by the board. Each applicant shall comply with the provisions of KRS 214.615(1). Each license certificate shall be signed by the president and secretary-treasurer and authenticated by the seal of the board.

(2) The ***examinations may***[~~examination shall~~] consist of[~~ a~~] written,[~~ and~~] clinical, or practical ***examinations***[~~examination~~] and shall relate to the skills needed for the practice of optometry in this Commonwealth at the time of the examination and shall seek to determine the applicant's preparedness to exercise these skills.[~~ In regard to the written examination,~~] The examining board[~~, at its discretion,~~] may:

(a) Prepare, administer, and grade the examination;

(b)[~~ Approve and administer a standardized examination prepared and graded by or under the direction of the National Board of Examiners in Optometry or any other organization approved by the board as qualified to prepare an examination;~~

~~(c)~~] Accept the scores of the applicant from an examination prepared, administered, and graded by the National Board of Examiners in Optometry or any other organization approved by the board as qualified to administer the examination***; and***

(c) Require passage of an examination on Kentucky optometric law.

(3)[~~ The applicant, except those granted licenses under the provisions of KRS 320.260 or 320.270, shall successfully pass both the written and clinical or practical portions of the examination.~~

~~(4)~~] Any person seeking a license to practice optometry ***under***[~~pursuant to~~] the provisions of this section shall submit an application to the board on forms furnished by the board. The applicant shall show proof of the following:

(a) The applicant is not less than eighteen (18) years of age ***and is of good moral character***;

(b) The applicant is a graduate of a school or college of optometry ***that is*** accredited by a regional or professional accreditation organization ***that***[~~which~~] is recognized or approved by the council on postsecondary accreditation, or by the United States Department of Education, and[~~ which~~] is in good standing, as ***approved***[~~determined~~] by the board. All applicants shall have transcript credit of at least six (6) semester hours in a course or courses from a school or college as described in this subsection in general and ocular pharmacology with particular emphasis on diagnostic pharmaceutical agents applied topically to the eye and six (6) semester hours in ocular pathology and therapy with emphasis on utilization of therapeutic pharmaceutical agents. All hours shall be from a school or college as described in this subsection***;***[~~.~~]

(c) All other information requested by the board as is set out on the application.

(4)[~~(5)~~]The ***nonrefundable*** fee for each ***license application***[~~examination~~] shall not exceed ***six***[~~two~~] hundred dollars ***($600)***[~~($200) for resident applicants and four hundred dollars ($400) for nonresident applicants~~].

(5)[~~(6)~~]No ***application shall be considered by the board after one (1) year from the date in which the board received the application has lapsed. After the lapse of the one (1) year period, an applicant shall submit a new application and another nonrefundable fee for further consideration by the board***[~~person shall be allowed to take the examination more than three (3) times within the period of any five (5) consecutive years~~].

Section 6. KRS 320.270 is amended to read as follows:

The board may license by endorsement an optometrist who holds a valid license that was obtained by examination from another state or territory of the United States if the applicant for licensure by endorsement:

(1) ***Has engaged in the active practice of optometry for at least five (5) years immediately preceding his or her application for licensure;***[~~Any person who has been licensed to practice optometry in another state, which state has licensing and educational requirements substantially equal to or higher than those of this state and which grants equal licensing privileges to persons licensed in this state, may be issued, without written examination, a license to practice optometry in this state upon satisfactorily complying with all regulations and procedures established by the board relating to the granting of licenses by reciprocity.~~]

(2) ***Has not committed any act that would constitute a violation of this chapter and the administrative regulations promulgated under this chapter and is not the subject of any pending or unresolved board action or malpractice suit in this or any other state or territory;***~~[The applicant shall be required to pass an oral and clinical or practical examination and produce satisfactory evidence that he has actually practiced optometry for at least five (5) years in the state from which he is applying for reciprocity, and shall further comply with all other regulations adopted by the board relating to the granting of a license by reciprocity.]~~

(3) ***Meets all of the qualifications for regular state licensure as set forth by the board; and***~~[The applicant shall further be required to execute and deliver an affidavit to the board stating that said applicant intends to practice optometry in the Commonwealth upon receipt of the license.]~~

(4) ***Has completed and submitted an application for licensure by endorsement to the board, submitted a nonrefundable fee to be determined by the board in administrative regulations of no more than seven hundred dollars ($700), and has authorized any state in which the applicant is licensed to submit information to the board indicating whether or not the applicant is in good standing with the respective state's licensing board***~~[The granting of a license by reciprocity shall be at the discretion of the board. An applicant seeking a license by reciprocity shall be charged a fee not to exceed four hundred dollars ($400)]~~.

Section 7. KRS 320.280 is amended to read as follows:

(1) All optometrists desiring to continue practice shall annually, prior to March 1, secure from the secretary-treasurer of the board a renewal certificate upon the payment of a fee of not more than two hundred dollars ($200). Not later than February 15 of each year the ***board***~~[secretary-treasurer]~~ shall notify by mail all optometrists of the renewal date and fee. Application for a renewal shall be upon a form~~[as is]~~ prescribed by the board and the optometrist shall furnish the information required by the form.

(2) As a prerequisite for license renewal, all optometrists now or hereafter licensed in the Commonwealth of Kentucky are and shall be required to take annual courses of study in subjects relating to the practice of optometry to the end that the utilization and application of new techniques, scientific and clinical advances, and the achievement of research will assure expansive and comprehensive care to the public. The annual courses of study shall include the course described in KRS 214.610(1). The length and content of study shall be prescribed by the board but shall not exceed eight (8) hours in any calendar year, with the exception of those optometrists who are authorized to prescribe therapeutic agents who shall be required to have additional credit hours of continuing education in ocular therapy and pharmacology, the amount of required credit hours to be determined by the board, but not to exceed an additional seventeen (17) credit hours, for a total not to exceed twenty-five (25) credit hours per year. Attendance ***shall***~~[must]~~ be at a course or ***by a sponsor***~~[courses]~~ approved by the board. Attendance at any course or courses of study ***is***~~[are]~~ to be certified to the board upon a form provided by the board and shall be submitted by each licensed optometrist at the time he makes application to the board for the renewal of his license and payment of his renewal fee.~~[The board is authorized to use a portion of the annual renewal fees for the purpose of contracting with institutions of higher learning, professional organizations, or qualified individuals for the providing of educational programs that meet this requirement. The board is further authorized to treat funds set aside for the purpose of continuing education as state funds for the purpose of accepting any funds made available under federal law on a matching basis for the promulgation and maintenance of programs of continuing education. In no instance may the board require a greater number of hours of study than are available at approved courses held within the state.]~~ The board ***may***~~[shall]~~ waive the continuing education requirement in cases of illness or undue hardship.

(3)~~[(2)]~~Failure of any optometrist to secure his renewal certificate within sixty (60) days after March 1, shall constitute sufficient cause for the board to revoke his license.

Section 8. KRS 320.290 is amended to read as follows:

~~[(1) Every optometrist shall register his license with the clerk of the county or counties in which he practices. The clerk shall receive a fee pursuant to KRS 64.012 for each registration.~~

~~(2)]~~Every practicing optometrist shall display in a conspicuous place at the entrance to his office the true full name of the person practicing therein and shall keep his license certificate conspicuously displayed in his place of practice so that it can easily be seen and read.

Section 9. KRS 320.295 is amended to read as follows:

~~[(1)]~~No optometrist shall engage in~~[any]~~ advertising ***of***~~[, in]~~ any form ***that***~~[, which contains a statement or claim which]~~ is false,~~[or tends to be]~~ misleading, ***or*** deceptive~~[or unfair, or which is self-laudatory rather than designed to inform the public.~~

~~(2) No optometrist shall engage in any direct personal solicitation of business, or engage any person to conduct direct personal solicitation on his behalf, unless of an already existing client of that optometrist.~~

~~(3) "Advertise" means to furnish any written, printed, or broadcast information containing an optometrist's name or any other identifying information, with the exception of the following:~~

~~(a) A professional card identifying the optometrist by name and as an optometrist and giving his address and telephone number;~~

~~(b) A brief professional announcement card stating the information contained in paragraph (a) of this subsection or any changed associations or addresses or phone numbers which may be mailed to other optometrists, patients, former patients, personal friends, and relatives;~~

~~(c) A routine telephone book listing containing only the information set forth in paragraph (a) of this subsection;~~

~~(d) A sign on or near the optometrist's office and in the building directory identifying the optometrist's office and containing only the information specified in paragraph (a) of this subsection; and~~

~~(e) A letterhead of an optometrist containing the information set forth in paragraph (a) of this subsection and the name of any other optometrists in his office.~~

~~(4) The board may establish regulations to govern advertising under this section and by regulation may institute a procedure requiring prepublication approval of advertisements by the board.~~

~~(5) In the event that the board disapproves any advertisement pursuant to its regulations, the optometrist submitting the advertisement may request a hearing before the board. The board may consider any additional information submitted to it by the optometrist, or other individuals, and shall issue its final decision concerning the advertisement in writing.~~

~~(6) Any optometrist aggrieved by a final decision of the board concerning an advertisement may appeal to the Franklin Circuit Court in the same manner provided in this chapter for appeals from disciplinary actions~~].

Section 10. KRS 320.300 is amended to read as follows:

It shall be unlawful and a violation of the provisions of this chapter for any person:

(1) To sell, fit, or dispense visual ***aids***[~~aid glasses~~] except upon the written prescription of an optometrist, physician, or osteopath regularly licensed to practice optometry, medicine, or osteopathy;

(2) To practice optometry, directly or indirectly, or to hold ***oneself out***[~~himself~~] as being able so to do without first having obtained a license from the board[~~ and filing the license with the clerk of the county or counties in which he practices~~];

(3) ***Who***[~~If he~~] writes a prescription for visual aid glasses, to receive any part of the price paid to a third person for filling ***the***[~~such~~] prescription[~~,~~] or for ***the***[~~such~~] third person to pay to the person writing the prescription any part of the price paid for filling the prescription;

(4) To practice optometry under any name other than his own, except as permitted by the board in its regulations.

Section 11. KRS 320.310 is amended to read as follows:

(1) The board ***may***[~~shall have the power to~~] refuse to[~~ grant,~~] issue, ***refuse to***[~~ or~~] renew***, limit or restrict,*** [~~any license to practice optometry, to ~~]revoke***,*** or suspend ***a***[~~any~~] license[~~ to practice optometry~~], ***may***[~~to~~] place ***on***[~~any optometrist upon terms and conditions of~~] probation,[~~ to limit the license privileges of an optometrist, or to issue a private~~] or[~~ public~~] reprimand ***a licensee, may order restitution, may impose a fine not to exceed one thousand dollars ($1,000) for each violation of this chapter or the corresponding administrative regulations, or may impose any combination of these penalties if it finds that an applicant or a licensee has***[~~for any of the following causes~~]:

(a) ***Engaged in any***[~~Presentation to the board of any license, certificate, or graduation diploma illegally or fraudulently obtained, or the~~] practice of fraud or ***deceit in obtaining or attempting to obtain a license***[~~deception in passing an examination~~];

(b) ***Been convicted of a felony or misdemeanor involving moral turpitude. A record of the conviction or a certified copy of the record shall be conclusive evidence***[~~Conviction of a felony or any crime which involves acts which relate to the optometrist's qualifications, ability, or moral fitness to continue to practice optometry or which may create a danger to the public~~];

(c) Chronic or persistent inebriety or addiction to a drug habit to an extent that ***continued practice is dangerous to patients or to the public safety***[~~disqualifies from practicing with safety to the public~~];

(d) ***Been granted a license upon a mistake of material fact***[~~Loaning, selling, or fraudulently obtaining any optometry diploma, license, record, or certificate, or aiding or abetting therein~~];

(e) ***Engaged in***[~~Gross~~] incompetence, as determined by the board;

(f) ***Practiced***[~~Grossly unprofessional or dishonorable conduct, as determined by the board;~~

~~(g) The obtaining of any fee by fraud or misrepresentation or the practice of deception or fraud upon any patient or patients;~~

~~(h) Affliction with a contagious or infectious disease which, in the opinion of the board, renders practice of optometry by the licensee or applicant for license dangerous to the public health;~~

~~(i) Practicing~~] as an itinerant, ***peddled***[~~peddling~~] from door to door, ***established***[~~establishing~~] a temporary office, or ***practiced***[~~practicing~~] optometry outside of or away from his regular office or place of practice;

(g)[~~(j)~~] ***Employed, procured, induced, aided, or abetted***[~~Employing, procuring, inducing, aiding or abetting~~] any person, not holding a ***Kentucky*** license, to practice optometry ***or in practicing optometry***;

[~~(k) Seeking patronage by means of solicitors, canvassers, cappers, steerers, or agents;~~]

(h)~~[(l)]~~ ***Used***~~[Using]~~ the title "doctor" or its abbreviation without further qualifying this title or abbreviation with the word "optometrist" ***or suitable words or letters designating an optometry degree***;

~~[(m) Use by an optometrist of the words "infirmary," "hospital," "school," "college," "university," or "institute" in English or any other language in connection with any place where optometry may be practiced or demonstrated; Provided, however, That nothing in this section shall prevent an optometric clinic, approved by the board, from being conducted on a nonprofit basis by a school or college of optometry or an association of registered optometrists;]~~

(i)~~[(n)]~~ ***Engaged in*** any conduct~~[which, in the opinion of the board, is of a character]~~ likely to deceive or defraud the public;

~~[(o) Receipt by an optometrist of any part of the price paid to another person for filling a prescription prepared by the optometrist;]~~

(j)~~[(p)]~~ ***Violated***~~[Violation of]~~ any order~~[of suspension, order limiting privileges, or terms or conditions of any order of probation]~~ issued by the board;

(k) ~~[(q) Has]~~Had his license to practice optometry in any other jurisdiction revoked, suspended, ***limited,*** placed on conditions of probation, or subjected to ***any*** other disciplinary action by the licensing authority thereof;

~~[(r) Receipt of any fees for services not rendered;]~~

(l)~~[(s)]~~ ***Prescribed***~~[Prescription of]~~ any therapeutic agent in~~[such]~~ an amount that the optometrist knows, or ***should***~~[has reason to]~~ know, is excessive under accepted and prevailing standards, or which the optometrist knows, or has reason to know, will be used or is likely to be used other than for an accepted therapeutic purpose;

(m)~~[(t)]~~ ***Developed***~~[Development of]~~ a physical or mental disability, or other condition, which renders the continued practice by the optometrist dangerous to~~[the]~~ patients or the public; ***or***~~[and]~~

(n)~~[(u)]~~ ***Violated***~~[Violation of]~~ any statute under this chapter ***or administrative regulation promulgated under those statutes***~~[pertaining to professional advertising of optometrists]~~.

(2)~~[Nothing in this section shall be construed to prohibit a licensed optometrist from issuing appointment cards to his patients when the information thereon is limited to matter pertaining to the time and place of appointment and that permitted on a professional card. For the purpose of this section, the professional card shall contain only the name, title, profession, degrees, address, telephone number, and office hours of the licensed optometrist.~~

~~(3)]~~ Nothing in this section shall prevent an optometrist from establishing ***branch offices if each***~~[not more than one (1) branch office, providing any]~~ office contains minimum equipment as~~[shall be]~~ required by ***administrative*** regulation of the board***, ensures patient care as necessary,*** and ***has***~~[provided further, that]~~ a ***Kentucky***~~[duly]~~ licensed optometrist~~[shall be]~~ in charge of the office.

Section 12. KRS 320.312 is amended to read as follows:

(1) When the board has reason to believe, based upon its own information or a complaint or inquiry directed to the board, that an optometrist is suffering from a physical or mental condition that might impede his ability to practice competently, the board may order the optometrist to undergo a physical or mental examination by persons designated by the board***, at the expense of the optometrist***.

(2) Failure of an optometrist to submit to an examination when directed shall constitute an admission that the concerned optometrist has developed a physical or mental disability, or other conditions, that continued practice is dangerous to patients or to the public and the board may act accordingly pursuant to KRS 320.310.

(3) The board may limit the optometrist's license privileges pursuant to this section in addition to the other alternatives set forth in KRS 320.310.

(4) An optometrist whose license has been suspended, limited, or revoked under this section shall, at reasonable intervals, be afforded an opportunity to demonstrate that he is able to resume the competent practice of optometry with reasonable skill and safety to patients.

Section 13. KRS 320.321 is amended to read as follows:

(1) ***Grievances may be submitted by an individual, organization, or entity, including the board based upon information within the board's knowledge.*** The board may investigate any suspected grounds for disciplinary action and may hire persons to investigate on its behalf. The board shall have the power to issue investigatory subpoenas for the appearance before the board of any person within the jurisdiction of the Commonwealth of Kentucky and to require production of any record, document, or other item. The board may seek enforcement of investigatory subpoenas in the courts of the Commonwealth as may be necessary. ***A copy of the grievance shall be mailed to the licensee at the last address that the board has on record. If the licensee chooses to respond to the grievance, he or she shall submit a response within ten (10) days after the date on which the grievance was mailed.***

(2) The board may initiate disciplinary proceedings based upon information within its knowledge or received from other persons. A majority of the board members may direct the issuance of a complaint; in these instances, the board shall

prepare a written complaint***, in accordance with KRS Chapter 13B, that***[~~ which~~] shall be signed by the chairman of the board and[~~ which~~] shall contain sufficient information to apprise the named optometrist of the nature of the charges. A ***copy of the*** complaint shall be delivered to the charged optometrist by personal delivery or ***sent*** by certified mail to the optometrist's last[~~ known~~] address ***that the board has on record***. The optometrist shall file a response within twenty (20) days after the ***complaint was sent or personally served upon the optometrist***[~~date of delivery~~]. ***Failure to submit a timely response or avoidance of service may be taken by the board as an admission of the charges contained in the complaint.*** The board may then review the ***grievance, information obtained by the board, and the*** optometrist's response, and dismiss the ***grievance***[~~complaint~~], issue a ***complaint and notice of hearing , or investigate further***[~~private and confidential reprimand to the optometrist, or schedule further proceedings~~].

(3) [~~If the board decides to schedule the matter for further proceedings, it shall assign the matter for full hearing by the board, or if the board directs, by any individual member of the board or a hearing officer. ~~]The hearing shall be conducted in accordance with KRS Chapter 13B.

(4) The board may ***impose discipline upon the licensee under Section 11 of this Act if the board finds a violation of this chapter or administrative regulations promulgated under this chapter, after a hearing***[~~revoke or suspend a license, place an optometrist on terms and conditions of probation, limit an optometrist's license privileges, or issue a private or public reprimand~~].

(5)[~~ If a board member serves as a hearing officer for a prehearing, informal conference, or a hearing, he shall abstain from voting on any final order which results from the hearing.~~

~~(6)~~] All costs of the proceeding may be assessed against the charged optometrist if a finding of guilt is made by the board.

Section 14. KRS 320.331 is amended to read as follows:

An optometrist who, by final order of the board has been subjected to any disciplinary action may file an appeal. The action on appeal shall be filed with the Circuit Court of the county in which the violation occurred in accordance with KRS Chapter 13B. The ***commencement of proceedings under this section shall not operate as a stay on the board's order, unless specifically ordered otherwise by the court***[~~board's order shall be stayed until final determination of the appeal, unless the court, upon motion of the board, finds that irreparable harm may result to the public unless the order is enforced during the pendency of the appeal~~].

Section 15. KRS 320.360 is amended to read as follows:

All fees imposed and collected under the provisions of this chapter shall be paid to the [~~secretary-treasurer of the ~~]board for the use of the board, and shall be deposited in the State Treasury to the credit of an agency fund for the use of the board. The board may make such expenditures from the fund as may, in the opinion of the board, serve to further the purposes of this chapter, including payment for professional services.

Section 16. KRS 320.990 is amended to read as follows:

Any person who violates any of the provisions of this chapter shall be ***guilty of a Class A misdemeanor***[~~fined not less than fifty dollars ($50) nor more than one hundred dollars ($100) for the first offense, and shall be fined one hundred dollars ($100) and confined in jail for thirty (30) days for each subsequent offense~~].

Section 17. KRS 217.015 is amended to read as follows:

For the purposes of KRS 217.005 to 217.215:

(1) "Advertisement" means all representations, disseminated in any manner or by any means, other than by labeling, for the purpose of inducing, or which are likely to induce, directly or indirectly, the purchase of food, drugs, devices, or cosmetics;

(2) "Bread" and "enriched bread" mean only the foods commonly known and described as white bread, white rolls, white buns, enriched white bread, enriched rolls, and enriched white buns, as defined under the federal act;

(3) "Cabinet" means the Cabinet for Health Services or its designee;

(4) "Color" means but is not limited to black, white, and intermediate grays;

(5) "Color additive" means a material that:

(a) Is a dye, pigment, or other substance made by a process of synthesis or similar artifice, or extracted, isolated, or otherwise derived, with or without intermediate or final change of identity, from a vegetable, animal, mineral, or other source. Nothing in this paragraph shall be construed to apply to any pesticide chemical, soil or plant nutrient, or other agricultural chemical solely because of its effect in aiding, retarding, or otherwise affecting, directly or indirectly, the growth or other natural physiological process of produce of the soil and thereby affecting its color, whether before or after harvest; or

(b) When added or applied to a food, drug, or cosmetic, or to the human body or any part thereof, is capable, alone or through reaction with another substance, of imparting color. "Color additive" does not include any material that has been or may in the future be exempted under the federal act;

(6) "Contaminated with filth" means any food, drug, device, or cosmetic that is not securely protected from dust, dirt, and as far as may be necessary by all reasonable means, from all foreign or injurious contaminants;

(7) "Cosmetic" means:

- (a) Articles intended to be rubbed, poured, sprinkled, sprayed on, introduced into, or otherwise applied to the human body or any part thereof for cleansing, beautifying, promoting attractiveness, or altering the appearance; and
- (b) Articles intended for use as a component of those articles, except that the term shall not include soap;

(8) "Device," except when used in subsection (48) of this section, KRS 217.035(6), KRS 217.065(3), KRS 217.095(3), and KRS 217.175(10), means instruments, apparatus, and contrivances, including their components, parts, and accessories, intended:

- (a) For use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals; or
- (b) To affect the structure or any function of the body of man or other animals;

(9) "Dispense" means to deliver a drug or device to an ultimate user or research subject by or pursuant to the lawful order of a practitioner, including the packaging, labeling, or compounding necessary to prepare the substance for that delivery;

(10) "Dispenser" means a person who lawfully dispenses a drug or device to or for the use of an ultimate user;

(11) "Drug" means:

- (a) Articles recognized in the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, or official national formulary, or any supplement to any of them;
- (b) Articles intended for use in the diagnosis, cure, mitigation, treatment or prevention of disease in man or other animals;
- (c) Articles, other than food, intended to affect the structure or any function of the body of man or other animals; and
- (d) Articles intended for use as a component of any article specified in this subsection but does not include devices or their components, parts, or accessories;

(12) "Enriched," as applied to flour, means the addition to flour of vitamins and other nutritional ingredients necessary to make it conform to the definition and standard of enriched flour as defined under the federal act;

(13) "Environmental Pesticide Control Act of 1972" means the Federal Environmental Pesticide Control Act of 1972, Pub. L. 92-516, and all amendments thereto;

(14) "Fair Packaging and Labeling Act" means the Fair Packaging and Labeling Act as it relates to foods and cosmetics, 15 U.S.C. secs. 1451 et seq., and all amendments thereto;

(15) "Federal act" means the Federal Food, Drug and Cosmetic Act, 21 U.S.C. secs. 301 et seq., 52 Stat. 1040 et seq., or amendments thereto;

(16) "Filled milk" means any milk, cream, or skimmed milk, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, to which has been added, or which has been blended or compounded with, any fat or oil other than milk fat, except the fat or oil of contained eggs and nuts and the fat or oil of substances used for flavoring purposes only, so that the resulting product is an imitation or semblance of milk, cream, skimmed milk, ice cream mix, ice-cream, or frozen desserts, whether or not condensed, evaporated, concentrated, frozen, powdered, dried, or desiccated, whether in bulk or in containers, hermetically sealed or unsealed. This definition does not mean or include any milk or cream from which no part of the milk or butter fat has been extracted, whether or not condensed, evaporated, concentrated, powdered, dried, or desiccated, to which has been added any substance rich in vitamins, nor any distinctive proprietary food compound not readily mistaken for milk or cream or for condensed, evaporated, concentrated, powdered, dried, or desiccated milk or cream, if the compound is prepared and designed for the feeding of infants or young children, sick or infirm persons, and customarily used on the order of a physician, and is packed in individual containers bearing a label in bold type that the contents are to be used for those purposes; nor shall this definition prevent the use, blending, or compounding of chocolate as a flavor with milk, cream, or skimmed milk, desiccated, whether in bulk or in containers, hermetically sealed or unsealed, to or with which has been added, blended or compounded no other fat or oil other than milk or butter fat;

(17) "Flour" means only the foods commonly known as flour, white flour, wheat flour, plain flour, bromated flour, self-rising flour, self-rising white flour, self-rising wheat flour, phosphated flour, phosphated white flour, and phosphated wheat flour, defined under the federal act;

(18) "Food" means:

- (a) Articles used for food or drink for man or other animals;
- (b) Chewing gum; and
- (c) Articles used for components of any such article;

(19) "Food additive" means any substance the intended use of which results or may be reasonably expected to result, directly or indirectly, in its becoming a component or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food; and including any source of radiation intended for any of these uses, if the substance is not generally recognized,

among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or, in the case of a substance used in a food prior to January 1, 1958, through either scientific procedures or experience based on common use in food to be safe under the conditions of its intended use; except that the term does not include:

(a) A pesticide chemical in or on a raw agricultural commodity;

(b) A pesticide chemical to the extent that it is intended for use or is used in the production, storage, or transportation of any raw agricultural commodity;

(c) A color additive; or

(d) Any substance used in accordance with a sanction or approval granted prior to the enactment of the Food Additives Amendment of 1958, pursuant to the federal act; the Poultry Products Inspection Act, 21 U.S.C. secs. 451 et seq.; or the Meat Inspection Act of 1907; and amendments thereto;

(20) "Food processing establishment" means any commercial establishment in which food is manufactured, processed, or packaged for human consumption, but does not include retail food establishments;

(21) "Food service establishment" means any fixed or mobile commercial establishment that engages in the preparation and serving of ready-to-eat foods in portions to the consumer, including, but not limited to: restaurants; coffee shops; cafeterias; short order cafes; luncheonettes; grills; tea rooms; sandwich shops; soda fountains; taverns; bars; cocktail lounges; nightclubs; roadside stands; industrial feeding establishments; private, public or nonprofit organizations or institutions routinely serving food; catering kitchens; commissaries; charitable food kitchens; or similar places in which food is prepared for sale or service on the premises or elsewhere with or without charge. It does not include food vending machines, establishments serving beverages only in single service or original containers, or retail food stores which only cut, slice, and prepare cold-cut sandwiches for individual consumption;

(22) "Food storage warehouse" means any establishment in which food is stored for subsequent distribution;

(23) "Immediate container" does not include package liners;

(24) "Imminent health hazard" means a significant threat or danger to health that is considered to exist when there is evidence sufficient to show that a product, practice, circumstance, or event creates a situation that requires immediate correction or cessation of operation to prevent illness or injury based on:

(a) The number of potential illnesses or injuries; or

(b) The nature, severity, and duration of the anticipated illness or injury;

(25) "Interference" means threatening or otherwise preventing the performance of lawful inspections or duties by agents of the cabinet during all reasonable times of operation;

(26) "Label" means a display of written, printed, or graphic matter upon the immediate container of any article; and a requirement made by or under authority of KRS 217.005 to 217.215 that any word, statement, or other information appearing on the label shall not be considered to be complied with unless the word, statement, or other information also appears on the outside container or wrapper, if any there be, of the retail package of the article, or is easily legible through the outside container or wrapper;

(27) "Labeling" means all labels and other written, printed, or graphic matter:

(a) Upon an article or any of its containers or wrappers; or

(b) Accompanying the article;

(28) "Legend drug" means a drug defined by the Federal Food, Drug and Cosmetic Act, as amended, and under which definition its label is required to bear the statement "Caution: Federal law prohibits dispensing without prescription.";

(29) "Meat Inspection Act" means the Federal Meat Inspection Act, 21 U.S.C. secs. 71 et seq., 34 Stat. 1260 et seq., including any amendments thereto;

(30) "New drug" means:

(a) Any drug the composition of which is such that the drug is not generally recognized among experts qualified by scientific training and experience to evaluate the safety of drugs as safe for use under the conditions prescribed, recommended, or suggested in the labeling thereof; or

(b) Any drug the composition of which is such that the drug, as a result of investigations to determine its safety for use under prescribed conditions, has become so recognized, but which has not, otherwise than in the investigations, been used to a material extent or for a material time under the conditions;

(31) "Official compendium" means the official United States pharmacopoeia, official homeopathic pharmacopoeia of the United States, official national formulary, or any supplement to any of them;

(32) "Person" means an individual, firm, partnership, company, corporation, trustee, association, or any public or private entity;

(33) "Pesticide chemical" means any substance that alone in chemical combination, or in formulation with one or more other

substances, is an "economic poison" within the meaning of the Federal Insecticide, Fungicide and Rodenticide Act and amendments thereto, and that is used in the production, storage, or transportation of raw agricultural commodities;

(34) "Poultry Products Inspection Act" means the Federal Poultry and Poultry Products Inspection Act; 21 U.S.C. secs. 451 et seq., Pub. L. 85-172, 71 Stat. 441, and any amendments thereto;

(35) "Practitioner" means medical or osteopathic physicians, dentists, chiropodists, and veterinarians who are licensed under the professional licensing laws of Kentucky to prescribe and administer drugs and devices. "Practitioner" includes optometrists when administering or prescribing pharmaceutical agents authorized in ***subsections (12) to (14) of Section 4 of this Act***[~~KRS 320.240(13), (14), and (15)~~], advanced registered nurse practitioners as authorized in KRS 314.011 and 314.042, and physician assistants when administering or prescribing pharmaceutical agents as authorized in KRS 311.560(3) and (4);

(36) "Prescription" means a written or oral order for a drug or medicine, or combination or mixture of drugs or medicines, or proprietary preparation, that is signed, given, or authorized by a medical, dental, chiropody, veterinarian, or optometric practitioner, and intended for use in the diagnosis, cure, mitigation, treatment, or prevention of disease in man or other animals;

(37) "Prescription blank" means a document that conforms with KRS 217.216 and is intended for prescribing a drug to an ultimate user;

(38) "Raw agricultural commodity" means any food in its raw or natural state, including all fruits that are washed, colored, or otherwise treated in their unpeeled natural form prior to marketing;

(39) "Retail food establishment" means any food service establishment, retail food store, or a combination of both within the same establishment;

(40) "Retail food store" means any fixed or mobile establishment where food or food products, including prepackaged, labeled sandwiches or other foods to be heated in a microwave or infrared oven at the time of purchase, are offered for sale to the consumer, and intended for off-premises consumption, but does not include establishments which handle only prepackaged, snack-type, nonpotentially hazardous foods, markets that offer only fresh fruits and vegetables for sale, food service establishments, food and beverage vending machines, vending machine commissaries, or food processing establishments;

(41) "Salvage distributor" means a person who engages in the business of distributing, peddling, or otherwise trafficking in any salvaged merchandise;

(42) "Salvage processing plant" means an establishment operated by a person engaged in the business of reconditioning, labeling, relabeling, repackaging, recoopering, sorting, cleaning, culling or who by other means salvages, sells, offers for sale, or distributes for human or animal consumption or use any salvaged food, beverage, including beer, wine and distilled spirits, vitamins, food supplements, dentifices, cosmetics, single-service food containers or utensils, containers and packaging materials used for foods and cosmetics, soda straws, paper napkins, or any other product of a similar nature that has been damaged or contaminated by fire, water, smoke, chemicals, transit, or by any other means;

(43) "Second or subsequent offense" has the same meaning as it does in KRS 218A.010;

(44) "Secretary" means the secretary of the Cabinet for Health Services;

(45) "Temporary food service establishment" means any food service establishment which operates at a fixed location for a period of time, not to exceed fourteen (14) consecutive days;

(46) "Traffic" has the same meaning as it does in KRS 218A.010;

(47) "Ultimate user" has the same meaning as it does in KRS 218A.010;

(48) If an article is alleged to be misbranded because the labeling is misleading, or if an advertisement is alleged to be false because it is misleading, in determining whether the labeling or advertisement is misleading, there shall be taken into account, among other things, not only representations made or suggested by statement, word, design, device, sound, or in any combination thereof, but also the extent to which the labeling or advertisement fails to reveal facts that are material in the light of the representations or material with respect to consequences which may result from the use of the article to which the labeling or advertisement relates under the conditions of use prescribed in the labeling or advertisement thereof or under the conditions of use as are customary or usual;

(49) The representation of a drug in its labeling or advertisement as an antiseptic shall be considered to be a representation that it is a germicide, except in the case of a drug purporting to be, or represented as, an antiseptic for inhibitory use as a wet dressing, ointment, dusting powder, or other use involving prolonged contact with the body; and

(50) The provisions of KRS 217.005 to 217.215 regarding the selling of food, drugs, devices, or cosmetics shall be considered to include the manufacture, production, processing, packing, exposure, offer, possession, and holding of those articles for sale, the sale, dispensing, and giving of those articles, and the supplying or applying of those articles in the conduct of any food, drug, or cosmetic establishment.

Section 18. The following KRS section is repealed:

320.255 Inactive status for license.

HJR 90, A JOINT RESOLUTION directing the Cabinet for Health Services to take all actions necessary to secure funding for a wage pass-through program to increase salaries for direct care personnel in long-term care facilities and declaring an emergency.

WHEREAS, direct care personnel are a vital link in providing quality care in long-term care facilities; and

WHEREAS, the success of long-term care facilities to attract and retain direct care personnel depends in part on their ability to pay competitive salaries in today's labor market; and

WHEREAS, approximately 75% of Kentucky's nursing facility beds are paid for by the Medicaid program; and

WHEREAS, the level of reimbursement provided to nursing facilities by the Medicaid program makes it difficult for facilities to pay attractive wages to direct care personnel; and

WHEREAS, personal care home services are reimbursed through the State Supplementation Program for Supplemental Security Income and experience similar difficulties attracting personnel; and

WHEREAS, noncompetitive salaries for direct care personnel in long-term care facilities can lead to staff turnover and ultimately affect the quality of care provided to patients;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. That the Cabinet for Health Services is directed to take all actions necessary, including the obtaining of any necessary federal waivers or the promulgation of administrative regulations, to provide for a salary increase necessary to recruit and retain direct care personnel in long-term care facilities by using any additional funds appropriated for long-term care facilities in the 2000 to 2002 fiscal years to establish a direct wage pass-through program in the Kentucky Medical Assistance Program.

Section 2. The provisions contained in the Executive Budget enacted by the 1998 General Assembly (Part 9, Special Provisions, Section 25(h)) relating to an increase for the nursing facility allocation shall be included in the budget bill to be enacted by the 2000 General Assembly with a requirement that any funding increase be used for a salary increase for direct care personnel as set forth in Section 1 of this Resolution.

Section 3. That additional funds be appropriated to provide for an increase in the maximum monthly payment standard necessary to recruit and retain direct care personnel in personal care homes in the 2000 to 2002 fiscal years by establishing a direct wage pass-through program in the State Supplementation Program as authorized under KRS 205.245.

Section 4. Whereas it is extremely difficult for long-term care facilities to attract and retain direct care personnel, an emergency is declared to exist, and this Act takes effect on July 1, 2000.

The Committee Substitute No. 1 to **HJR 90** is as follows:

HJR 90, A JOINT RESOLUTION directing the Cabinet for Health Services to take all actions necessary to secure funding for a wage pass-through program to increase salaries for direct care personnel in long-term care facilities and declaring an emergency.

WHEREAS, direct care personnel are a vital link in providing quality care in long-term care facilities; and

WHEREAS, the success of long-term care facilities to attract and retain direct care personnel depends in part on their ability to pay competitive salaries in today's labor market; and

WHEREAS, approximately 75% of Kentucky's nursing facility beds are paid for by the Medicaid program; and

WHEREAS, the level of reimbursement provided to nursing facilities by the Medicaid program makes it difficult for facilities to pay attractive wages to direct care personnel; and

WHEREAS, personal care home services are reimbursed through the State Supplementation Program for Supplemental Security Income and experience similar difficulties attracting personnel; and

WHEREAS, noncompetitive salaries for direct care personnel in long-term care facilities can lead to staff turnover and ultimately affect the quality of care provided to patients;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Cabinet for Health Services shall take such administrative action as may be available based on appropriated funds to focus reimbursement policy to recruit and retain direct care staff in nursing facilities.

Section 2. The Kentucky General Assembly recognizes the need for the Cabinet for Health Services to implement a prospective payment system for nursing facilities, designed in part to strengthen the ability to deliver quality care.

Section 3. If additional funds to increase the maximum monthly payment standard for personal care home services funded by the State Supplementation Program are appropriated above the Governor's recommended budget amounts for fiscal years 2000-2002, personal care homes shall place a priority on using these additional funds to recruit and retain direct care personnel.

Section 4. Whereas it is extremely difficult for long-term care facilities to attract and retain direct care personnel, an emergency is declared to exist, and this Act takes effect on July 1, 2000.

The Committee Amendment No. 1 Title to **HJR 90** is as follows:

By amending the title to read as follows: "A JOINT RESOLUTION directing the Cabinet for Health Services to take all actions necessary to secure funding to increase salaries for direct care personnel in long-term care facilities and declaring an emergency."

HCR 119, A CONCURRENT RESOLUTION creating a task force to study the impact of the certificate of need on the cost, access, and quality of health care in the Commonwealth.

WHEREAS, the original purpose of the certificate of need was to improve the quality and increase access to health facilities, services, and providers, and to create a cost-efficient health care delivery system in the Commonwealth; and

WHEREAS, the Medicaid budget has continued to grow, increasing from $2,056,228,000 of actual benefit expenditures during the 1996 fiscal year to projected expenditures of $2,900,856,300 for the 2000 fiscal year; and

WHEREAS, according to the Kentucky State Data Center, by 2020, the population over the age of 65 in Kentucky is estimated to grow to 717,607, which is an increase of 45% as compared with only a 10% growth in Kentucky's total population. This growth will influence the demand for alternative models for health care delivery for the elderly; and

WHEREAS, the certificate of need for long-term care beds is based on the needs of the state as a whole, which has lead to a maldistribution of long-term care beds across the state and a decrease in access to services in some counties; and

WHEREAS, elderly citizens are often admitted to long-term care beds that are located in a different part of the state than their homes, making it difficult to maintain close relationships with family and friends; and

WHEREAS, the current certificate of need stifles creativity in developing humanistic models for delivering health care that are designed to enable elderly couples to spend the rest of their lives together as a family unit when one member receives nursing facility or nursing home level of care; and

WHEREAS, the development of humanistic models for delivering health care has the potential to decrease placement into nursing facility or nursing home beds when it is more appropriate for the individual to receive their care in a less restrictive and less costly environment; and

WHEREAS, the separation of elderly from the family or the spouse creates undue pain, grief, and loss of companionship at a time when family love and support is most needed; and

WHEREAS, it is the responsibility of the Commonwealth to enable the development of humanistic health care services and living options that permit the elderly to make choices regarding where and with whom they wish to spend the last years of their lives; and

WHEREAS, the federal government lifted the requirement that states have a certificate of need January 1, 1987, leading 14 states to repeal or modify their certificate of need laws; and

WHEREAS, there has been much debate on the effect of certificate of need on cost, consumer choice, geographic access, and quality of health care;

NOW, THEREFORE,

Be it resolved by the House of Representatives of the General Assembly of the Commonwealth of Kentucky, the Senate concurring therein:

Section 1. The Legislative Research Commission is directed to establish a seventeen member legislative task force to study the certificate of need during the 2000-2002 interim. The task force shall meet at least monthly, beginning not later than October 1, 2000, and shall report its findings and recommendations to the Legislative Research Commission no later than September 1, 2001. The task force shall study the impact of the certificate of need on the cost, access, and quality of health care in the Commonwealth, which shall include, but not be limited to:

(1) Identifying the potential consequences of repealing the certificate of need;

(2) Ascertaining if the certificate of need limits consumer choices;

(3) Identifying the limitations that the certificate of need places on the development of alternative humanistic models for delivering health care to seniors;

(4) Determining if the current certificate of need provides the flexibility to develop alternative living models and health care delivery systems that are sufficient to meet the needs of the expanding elderly population;

(5) Describing the impact of certificate of need limitations on families and quality of life;

(6) Determining the potential impact of increasing competition in the health care market;

(7) Identifying components for certificate of need review that would be useful in enhancing the quality of services delivered in health facilities; and

(8) Determining the effect of government reimbursement rates on quality of care.

Section 2. The Legislative Research Commission shall appoint the following members of the Senate and the House of Representatives to serve as co-chairs and members of the task force and shall appoint co-chairs from the membership:

(1) Seven members of the Interim Joint Committee on Health and Welfare;

(2) Five members of the Interim Joint Committee on Banking and Insurance;

(3) Two members of the Interim Joint Committee on Seniors, Military Affairs, and Public Safety;

(4) Two members of the Interim Joint Committee on Appropriations and Revenue; and

(5) One member from the General Assembly at large.

Section 3. Provisions of this resolution to the contrary notwithstanding, the Legislative Research Commission shall have the authority to alternatively assign the issues identified herein to an interim joint committee or subcommittee thereof, and to designate a study completion date.

The Committee on Appropriations and Revenue reported **HB 572, HB 911,** and **HB 996,** with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 572, AN ACT relating to research, innovation, and technology businesses.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

As used in Sections 4 to 17 of this Act, unless the context indicates otherwise:

(1) "Applied research" means those research activities occurring at universities and in private enterprises that have potential commercial application;

(2) "Cluster" means a geographically bound concentration of similar, related, or complementary businesses with active channels for business transactions, communications, and dialogue, that share specialized infrastructure, labor markets, and services, and that are faced with common opportunities and threats;

(3) "Commission" means the Kentucky Innovation Commission;

(4) "Commonwealth" means the Commonwealth of Kentucky;

(5) "Council" means the Council on Postsecondary Education;

(6) "Eligible company" means any corporation, limited liability company, partnership, registered limited liability partnership, sole proprietorship, business trust, person, group, or other entity engaged in nonretail commerce, agribusiness, trade, or manufacturing;

(7) "Immediate family members" means:

- ***(a) Spouse and parents-in-law;***
- ***(b) Parents and grandparents;***
- ***(c) Children and their spouses; and***
- ***(d) Siblings and their spouses;***

(8) "Kentucky-based company" means a business with its principal place of business in Kentucky or no less than fifty percent (50%) of its property and payroll located in Kentucky;

(9) "Knowledge-based" means driven by knowledge, innovation, and speed;

(10) "Medium-size company" means a business with fifty-one (51) to one hundred fifty (150) employees;

(11) "Qualified company" means an eligible company that has been awarded a funding voucher;

(12) "Science and technology organization" means an independent, nonprofit or quasi-governmental organization, with a statewide mission, that has a demonstrated history of managing complicated programs in the areas of entrepreneurial innovation, science, and technology advancement;

(13) "Seed funding" means financing that is provided for early-stage development, refinement, and commercialization of a product, process, or innovation through continuing applied research, advancing the patent process, determining commercial and market potential, or moving research toward development of a prototype; and

(14) "Small company" means a firm with fifty (50) or fewer employees.

SECTION 2. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

The General Assembly finds that the general welfare and material well-being of the citizens of the Commonwealth depend on immediate action to develop a strong, entrepreneurial economy, characterized by knowledge, innovation, and speed and that it is in the best interest of the Commonwealth to promote research, innovation, and high-technology enterprises that utilize the higher-order skills of an educated workforce.

SECTION 3. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is established the Kentucky Innovation Commission, as an independent advisory commission, consisting of fifteen (15) members as follows:

- *(a) The Governor or designee;*
- *(b) The secretary of the Governor's Executive Cabinet or designee;*
- *(c) The secretary of the Cabinet for Economic Development or designee;*
- *(d) The president of the Council on Postsecondary Education or designee;*
- *(e) The state budget director or designee;*
- *(f) The Speaker of the House or designee;*
- *(g) The President of the Senate or designee; and*
- *(h) Eight (8) at-large members appointed by the Governor as follows:*
  - *1. Four (4) members of the private sector possessing extensive experience and expertise relating to managing a high-technology business or engaging in an innovation-driven, knowledge-based enterprise;*
  - *2. One (1) member engaged in the business of venture capital;*
  - *3. One (1) member of the private sector possessing extensive experience and expertise relating to providing or supporting communications infrastructure; and*
  - *4. Two (2) members who are engineers or scientists recognized for their scientific or technological research efforts, or educators with an interest or background in teaching students to become highly skilled workers or entrepreneurs.*

(2) The eight (8) at-large members shall serve terms of four (4) years, except that the original appointments shall be staggered so that two (2) appointments shall expire at two (2) years, three (3) appointments shall expire at three (3) years, and three (3) appointments shall expire at four (4) years from the dates of initial appointment.

(3) The commission shall meet quarterly and at other times upon call by the chair.

(4) Eight (8) members shall constitute a quorum for conducting business.

(5) Members shall receive no compensation except that the at-large members shall be reimbursed for actual and necessary travel expenses for attending meetings and performing other official functions, consistent with state reimbursement policy for state employees.

(6) Vacancies shall be filled in the same manner as the original appointment.

(7) The chair and vice chair of the commission shall be appointed by the Governor from the private sector membership.

(8) The commission shall provide ongoing advice, direction, and policy recommendations to the Governor and the General Assembly relating to the status of Kentucky knowledge-driven businesses, research and development initiatives, and related high-skill training and education in the Commonwealth.

(9) The duties and responsibilities of the commission shall be to:

- *(a) Promote the cooperation of private and public entities that have the purpose and duty of advancing the knowledge-based economy in the Commonwealth through technological innovation and knowledge transfer;*
- *(b) Consider performance indicators recommended by public and private experts in and outside of the state in the fields of research and development and economic development, for the purpose of recommending benchmarks. Experts in this state shall include, but not be limited to, representatives from the universities undertaking research and development activities, representatives of the Kentucky Science and Technology Corporation, representatives of targeted technology sectors, representatives of the Cabinet for Economic Development, and representatives of other state agencies having economic development and information technology responsibilities. Outside state experts shall include nationally recognized independent reviewers to assess the competitiveness of technology sectors in this state and the impact of research and development activities on economic development in the Commonwealth. Quantitative and qualitative indicators may include but are not limited to the following:*
  - *1. Kentucky companies modernizing to become more technologically innovative and globally competitive;*
  - *2. Research and development initiatives undertaken at Kentucky universities with federal, state, or private*

funds;

3. Educational attainment in areas that support the workforce needs of information technology and high-growth knowledge industries;

4. High-technology sectors and companies moving to and operating in the state;

5. Patents filed for technology or knowledge-based commercial products, processes, or services;

6. Businesses using electronic commerce and the communications infrastructure access capacity for Kentucky businesses; and

7. Growth in corporate headquarters, research and development centers, high-income employees, and clustering of related technology industries and suppliers;

(c) Operate as a common strategic umbrella to advocate for the use of federal, state, local government, and private sector funds to create research and development projects, modernize manufacturing facilities, and promote knowledge-based, technology sectors and companies in the Commonwealth; and

(d) Report to the Governor and to the General Assembly annually on performance indicators, recommending benchmarks for measuring progress toward the advancement of the knowledge-based economy, technological innovation, and knowledge transfer, and reporting on the programs and initiatives set forth in Sections 5 to 21 of this Act.

(10) The support staff for the commission shall be from the office of the state budget director.

SECTION 4. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education shall have all the powers and authority, not explicitly prohibited by statute, necessary and convenient to carry out and effectuate the purposes of Sections 5 to 17 of this Act, including, but not limited to:

(a) Entering into contracts or agreements necessary or incidental to the performance of its duties, functions, and responsibilities;

(b) Soliciting, borrowing, accepting, receiving, and expending funds from any public or private source, including, but not limited to, general fund appropriations of the Commonwealth, grants or contributions of money, property, labor, or other things of value to be used to carry out the programs' operations, functions, and responsibilities; and

(c) Negotiating royalty payments on patents and licenses on innovations or inventions arising in the course of research and work conducted by the programs' projects and taking an equity or related position in innovations, inventions, or companies arising in the course of research and work conducted by the programs' projects, on behalf of the Commonwealth, and for the sole purpose of reinvesting in and sustaining a revolving fund to carry out and effectuate the purposes of Sections 5 to 16 of this Act.

(2) The council may expend money in the funds created in Section 5, Section 9, and Section 13 of this Act for reasonable administrative expenses directly incurred in carrying out the requirements of Sections 5 to 17 of this Act. It is the intent of the General Assembly that the funds created in Section 5, Section 9, and Section 13 of this Act be used, to the fullest extent possible, to directly fund project costs.

(3) The council shall contract with a science and technology organization to administer the programs created in Section 6 and Section 14 of this Act, and may contract with a science and technology organization to administer the programs created in Section 10 and Section 17 of this Act. The council may contract with the Kentucky Science and Technology Corporation to administer these programs. The council shall approve the application criteria, the process for submission of an application, and the structure and type of outside expertise or peer review used in the application review process in the programs created in Section 6, Section 10, and Section 14 of this Act.

(4) No member of the council or the science and technology organization or other administering entity, or their employees or outside experts or their immediate family members, shall directly or indirectly financially benefit in any award, contract, or agreement under the programs.

(5) The council shall submit an annual report to Kentucky Innovation Commission, the Governor, and the General Assembly detailing its work related to the programs created in Section 6, Section 10, Section 14, and Section 17 of this Act. The annual reports shall include reporting on the progress made in achieving each program's purposes, qualitative and quantitative information concerning the applications received, projects approved and undertaken, companies served, and funding amounts invested in each project or program, as appropriate, and findings and recommendations to increase each program's effectiveness in achieving its purposes.

(6) All records related to the programs created in Section 6, Section 10, Section 14, and Section 17 of this Act shall be deemed property of the council and shall be deemed open records and subject to public inspection under KRS 61.870 to 61.884, unless:

(a) The record is excluded from inspection under KRS 61.878; and

(b) The record involves a trade secret or other legally protectable intellectual property or confidential proprietary information of the eligible or qualified company.

SECTION 5. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury a fund entitled the "Kentucky Research and Development Voucher Fund" for the purpose of enabling small or medium-size, Kentucky-based companies to undertake research and development work in partnership with universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Research and Development Voucher Program.

SECTION 6. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Research and Development Voucher Program to provide vouchers to small and medium-size, Kentucky-based companies to undertake research and development work in partnership with universities in the Commonwealth.

(2) The purpose of the Kentucky Research and Development Voucher Program is to:

(a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;

(b) Support research and development activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;

(c) Stimulate growth-oriented enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's universities, and research organizations; and

(e) Promote research and development activities that are market-oriented.

SECTION 7. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The science and technology organization shall have the authority to review applications, qualify companies, and certify qualified companies.

(2) The science and technology organization shall develop application criteria and an application process subject to the following limitations. The proposed research and development project shall be likely to:

(a) Produce a measurable result and be technically sound;

(b) Lead to innovative technology or new knowledge;

(c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

(d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within the Commonwealth.

(3) The applicant shall provide to the science and technology organization an application that shall include, but not be limited to, the following information:

(a) Verification that the applicant is an eligible company that meets the definition of a Kentucky-based company and medium-size company or small company;

(b) A technical research plan that is sufficient for outside expert review;

(c) A detailed financial analysis that includes the commitment of resources by the applicant and others;

(d) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and

(e) A statement of the economic development potential of the project.

(4) The science and technology organization shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the science and technology organization shall make a determination of the application and may determine that the applicant is a qualified company as defined in Section 1 of this Act.

(5) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (6) of this section the science and technology organization shall present both qualified company and university with a certification authorizing voucher funding.

(6) Prior to receiving certification authorizing voucher funding from the science and technology organization, the

qualified company shall:

(a) Negotiate an agreement and funding contract with a university in the Commonwealth to undertake the research and development work; and

(b) Provide assurance that the collaborating parties have adequately addressed the ownership and disposition of patents, royalties, and all other intellectual property rights relating to the contract between the qualifying company, the university, and the Council on Postsecondary Education as set forth in subsection (1)(c) of Section 4 of this Act.

(7) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program's availability and a program schedule, including but not limited to the following:

(a) A review cycle including:

1. A deadline for submission of applications at least biannually; and

2. A deadline for reviewing applications of no more than one hundred twenty (120) days after the application submission deadline; and

(b) A deadline, from the date an applicant is determined to be a qualified company, by which certification shall be made. If certification is not made by that deadline the funding voucher award is made void.

SECTION 8. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Project funding in the Kentucky Research and Development Voucher Fund Program shall have the following limitations:

(1) Voucher award funds from the state fund shall be expended within the university under contract;

(2) The maximum amount of voucher funds awarded to a qualified company shall not exceed one hundred thousand dollars ($100,000) each year for two (2) years, equal to a maximum of two hundred thousand dollars ($200,000); and

(3) At a minimum, the qualified company shall match the project award by a one-to-one dollar ratio for each year of the project. The science and technology organization has sole discretion to authorize an in-kind contribution in lieu of part of the industry match if the science and technology organization determines that the financial limitations of the qualified company warrants this authorization.

SECTION 9. A NEW SECTION OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury a fund entitled the "Kentucky Rural Innovation Fund" for the purpose of enabling small, rural Kentucky-based firms to undertake research and development, and entrepreneurial innovation work in partnership with postsecondary institutions in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Rural Innovation Program.

SECTION 10. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Rural Innovation Program to provide vouchers to rural Kentucky-based, small companies to undertake research, development, and entrepreneurial innovation work in partnership with Kentucky postsecondary institutions, the Small Business Development Center Network in Kentucky, and other entities engaged in research and development work.

(2) The purpose of the Kentucky Rural Innovation Program is to:

(a) Accelerate knowledge transfer and technological innovation that improve economic competitiveness and spur economic growth in rural, Kentucky-based, small companies;

(b) Support entrepreneurial activities that have clear potential to lead to commercially successful products, processes, or services within a reasonable period of time;

(c) Stimulate growth-oriented enterprises within the Commonwealth;

(d) Encourage partnerships and collaborative projects between private enterprises, Kentucky's postsecondary institutions, research organizations, and the Small Business Development Center Network in Kentucky; and

(e) Promote research, development, and entrepreneurial activities that are driven by private sector requirements.

SECTION 11. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The council shall have the authority to review applications, award vouchers to qualifying companies, and certify qualified companies. The council shall develop application criteria and an application process subject to the following limitations. The proposed project shall be likely to:

(a) Produce a measurable result and be technically sound;

(b) Lead to innovative technology or new knowledge;

(c) Lead to commercially successful products, processes, or services within a reasonable period of time; or

(d) Show significant potential for stimulating economic growth and a reasonable probability to enhance employment opportunities within rural Kentucky.

(2) The applicant shall provide to the council an application that shall include, but not be limited, to the following information:

(a) Verification that the applicant is an eligible company, a Kentucky-based company, and a small company, and is located in a rural area of the state;

(b) Written justification that the project application is consistent with the program purposes;

(c) A research, development, and entrepreneurial plan that is sufficient in scope for review;

(d) A financial analysis and resource support plan that includes sufficient commitments by the applicant and others, in addition to an award voucher, providing a reasonable probability of the success of the project endeavor;

(e) Sufficient detail concerning proposed project partners, type and amount of work to be performed by each partner, and expected product or service with estimated costs to be reflected in the negotiated contract or agreement; and

(f) A statement of the economic development potential of the project.

(3) The council shall conduct an independent review with the use of outside experts to evaluate each application. Following the application review, the council shall make a determination of the application and may determine that the applicant is a qualified company as defined in Section 1 of this Act.

(4) Upon a qualified company's presentation of a legal agreement or contract meeting the conditions under subsection (5) of this section the council shall present the qualified company and partnering entities with a certification authorizing voucher funding.

(5) Prior to receiving certification authorizing voucher funding the qualified company shall:

(a) Negotiate an agreement and funding contract with one (1) or more of Kentucky's postsecondary institutions, the Small Business Development Center Network for approved project activities specified under KRS 154.01-750(4), or other entity engaged in the research and development work, to undertake the research and development and entrepreneurial work; and

(b) Provide assurance that the collaborating parties have adequately addressed the ownership and disposition of patents, royalties, and all other intellectual property rights relating to the contract between the qualifying company, the partnering entities, and the Council on Postsecondary Education as set forth in subsection (1)(c) of Section 4 of this Act.

(6) The council shall set forth guidelines as to when and how all areas of the state will be notified about the program availability and guidelines for making application to the program. The council shall determine a deadline, from the date a voucher is awarded, that certification shall be made. If certification is made by that deadline the voucher award is made void.

(7) The council may, in effectuating the provisions of this section, contract with any public agency, private entity, or science and technology organization to administer and manage the Kentucky Rural Innovation Program.

SECTION 12. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Project funding in the Kentucky Rural Innovation Program shall have the following limitations:

(1) Voucher award funds shall be used as seed funding as defined in Section 1 of this Act;

(2) Voucher award funds may be used for those entrepreneurial training topics specified in KRS Chapter 154.01-750(4), if they meet particular objectives of a qualified company as delineated in the project application; and

(3) The amount of a voucher fund award to a qualified company shall not exceed twenty-five thousand dollars ($25,000) each year for two (2) years, equal to a maximum of fifty thousand dollars ($50,000).

SECTION 13. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

There is established and created in the State Treasury a fund entitled the "Kentucky Commercialization Fund" to provide development funds for promising technologies developed through the research and development work undertaken at the universities in the Commonwealth. The fund may receive state appropriations, gifts, grants, federal funds, revolving funds, and any other funds both public and private. Moneys deposited in the fund shall be disbursed by the State Treasurer upon the warrant of the secretary of the Finance and Administration Cabinet. Any unallocated or unencumbered balances in the fund shall be invested as provided in KRS 42.500(9), and any income earned from the investments along with the unallotted or unencumbered balances in the fund shall not lapse, and shall be deemed a trust and agency account and made available solely for the purposes and benefits of the Kentucky Commercialization Fund Program.

SECTION 14. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) There is created and established in the Council on Postsecondary Education a Kentucky Commercialization Fund Program to provide seed funding as defined in Section 1 of this Act, for the development of promising technologies emerging from Kentucky's universities.

(2) The purposes of the Kentucky Commercialization Fund Program is to:

(a) Accelerate knowledge transfer and technological innovation, improve economic competitiveness, and spur economic growth in Kentucky-based companies;

(b) Provide seed funding for promising technologies developed in Kentucky's universities;

(c) Support promising technologies with commercial potential that are in their early stages of development;

(d) Promote technologies and resources offered by Kentucky's postsecondary institutions to private enterprises; and

(e) Support the formation and organization of private enterprise that advances commercial applications based on a university's research and development work.

SECTION 15. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The science and technology organization shall conduct an outside review to evaluate each proposal.

(2) The science and technology organization shall have the authority to review and provide to the council a reporting of recommended fund projects, which includes a ranking of projects, suggested funding amounts for each project, and reasons for recommending the selected project.

(3) The council shall receive from the science and technology organization a reporting of recommended projects and shall have the final approval on program fund awards.

(4) The science and technology organization shall recommend projects based on proposal applications submitted by Kentucky's universities. The proposals shall be selected on criteria that include, but are not limited to the following:

(a) Competitive, external peer review;

(b) Merits of the proposal to meet the program's purposes under subsection (2) of Section 14 of this Act; and

(c) Potential of the proposal to increase the competitiveness of Kentucky businesses.

(5) Prior to final approval of fund awards, the university submitting the proposal shall provide assurance that the collaborating parties have adequately addressed the ownership and disposition of patents, royalties, and all other intellectual property rights relating to the contract between the qualifying company, the partnering entities, and the Council on Postsecondary Education as set forth in subsection (1)(c) of Section 4 of this Act.

(6) The science and technology organization, upon approval by the council, shall set forth guidelines as to when and how all areas of the state will be notified about the program availability and a program schedule, including but not limited to the following:

(a) A review cycle including:

1. A deadline for submission of proposals at least biannually; and

2. A deadline for proposal review of no more than one hundred twenty (120) days after the proposal application submission deadline; and

(b) A deadline for the awarding of approved projects and program funds.

SECTION 16. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

Project funding in the Kentucky Commercialization Fund Program shall have the following limitations:

(1) The maximum amount of funding for a project award shall not exceed seventy-five thousand dollars ($75,000) each year up to three (3) years, equal to a maximum of two hundred twenty-five thousand dollars ($225,000); and

(2) The University of Kentucky and the University of Louisville shall be awarded together no more than seventy percent (70%) of fund awards.

SECTION 17. A NEW SECTION OF KRS CHAPTER 164 IS CREATED TO READ AS FOLLOWS:

(1) The Council on Postsecondary Education is directed to create nonprofit regional technology corporations. The regional technology corporations shall act as intermediary organizations delivering services and providing resources to knowledge-based clusters, as defined in Section 1 of this Act, primarily in rural areas of Kentucky. Public and private organizations, including comprehensive universities and other postsecondary institutions, may participate in activities organized by the regional technology corporations.

(2) Regional technology corporations shall be organized to support specific clusters, as determined by the council. The council shall not create a regional technology corporation to support and serve a cluster unless it determines that:

(a) The needs of a particular cluster are sufficient to warrant the creation of a regional technology corporation; and

(b) The economic impact in the state or region of a particular cluster is sufficient to warrant the creation of a regional technology corporation.

(3) The regional technology corporations may perform services that include, but are not limited to, the following:

(a) Identify key areas in which the state has comparative advantages and identify the key supplier chains involved;

(b) Identify ways to link key suppliers and industry anchors to other industries in a matchmaking function;

(c) Work with economic development recruitment organizations, assisting in identifying and encouraging companies to fill gaps in supplier chains or serve as anchors for cluster development;

(d) Serve as regional one-stop clearinghouses to cluster companies and related organizations;

(e) Identify and support the creation of curricula, short courses, certificate programs, and nondegree programs to meet the workforce training needs of promising industries and clusters;

(f) Support existing industry associations and help create new associations in emerging industries and clusters; and

(g) Develop regional strategies around the regional technology corporations' purpose to advocate for and secure public and private resources to implement these strategies.

(4) The council may, in effectuating the provisions of this section and for the administration and management related to this section, contract with any public agency, postsecondary institution, private entity, or science and technology organization.

(5) Each regional technology corporation shall report annually and at other times, as required by the council. The regional technology corporation shall report to the council in a manner as prescribed by the council, but reporting shall include information concerning the clusters and companies served, projects undertaken, progress made in achieving its purposes, and recommendations to increase its effectiveness in achieving its purposes.

(6) Funding for the creation and start-up of a regional technology corporation shall be limited to no more than seventy-five thousand dollars ($75,000) for the first year of operation and fifty thousand dollars ($50,000) for the second year of operation for a maximum of one hundred twenty-five thousand dollars ($125,000) from the state fund.

SECTION 18. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cluster" and "knowledge-based" shall have the same meaning as in Section 1 of this Act.

(2) In an attempt to accomplish the mission of the Commonwealth's economic development system in KRS 154.01-020 and the purpose of the Kentucky Economic Development Partnership in KRS 154.10-010, the Cabinet for Economic Development shall undertake a strategic technology capacity initiative.

(3) The purposes of the strategic technology capacity initiative within the Cabinet for Economic Development shall be to:

(a) Focus on the recruitment of research and development companies, organizational units, projects, and activities in the Commonwealth;

(b) Attract high-technology and research and development centers into Kentucky and support the growth and creation of high-technology, innovative companies from within the Commonwealth; and

(c) Build and promote the networks of technology-driven and research-intensive industries with their related suppliers, with the goal of creating clusters of innovation-driven industries in Kentucky.

(4) In implementing the strategic technology capacity initiative, the Cabinet for Economic Development shall undertake a study that includes the following:

(a) An analysis to determine those knowledge-based industry sectors that would be best identified as appropriate targets for economic development recruitment;

(b) An analysis of supplier chains to the identified industry sectors that would support and enhance the presence of technology-driven industries; and

(c) A review and detailed survey of the financial needs of those targeted technology-driven industries to determine what changes may be needed in the state's incentive programs and other state support services to industry.

(5) The strategic technology capacity initiative shall utilize the assistance of various departments and functions within the Cabinet for Economic Development, other state government agencies, and other academic and technology-oriented entities to achieve the purposes under subsection (3) of this section.

(6) The Cabinet for Economic Development may enter into contracts or agreements with other private or public entities to study the capacity to attract high-technology and innovative companies and research and development centers to Kentucky and to assist in addressing the unique recruiting issues surrounding attracting these industries.

(7) The Cabinet for Economic Development shall provide to the Kentucky Innovation Commission a report of its strategic technology capacity initiative annually and the results of its study as required in subsection (4) of this section, and shall provide to the Kentucky Innovation Commission additional information and assistance in the completion of its

work as required in subsection (9)(b) of Section 3 of this Act.

SECTION 19. A NEW SECTION OF SUBCHAPTER 12 OF KRS CHAPTER 154 IS CREATED TO READ AS FOLLOWS:

(1) As used in this section, "cluster" shall have the same meaning as in Section 1 of this Act.

(2) It is the intention of the General Assembly to recognize that a strong manufacturing base for the economy of the Commonwealth requires not only modernization of the production process but also an increase in the number of products developed, so that through the creation of new product lines, additional value-added products, and new manufacturing methods the economy will grow and quality job opportunities will increase. The Cabinet for Economic Development shall support this intention through its authority in KRS 154.12-050 and through its strategic technology capacity initiative in Section 18 of this Act.

(3) The Cabinet for Economic Development shall enter into contracts or agreements with the Kentucky Technology Service, Inc., a nonprofit organization with the mission to assist Kentucky small and medium-size manufacturers to become more competitive in the global marketplace. The contracts or agreements shall require the Kentucky Technology Service, Inc., to undertake the following activities:

(a) Negotiate contractual agreements with existing manufacturers to deliver modernization services that are likely to lead to the creation of new product lines, additional value-added products, and new manufacturing methods;

(b) Deliver engineering, technical, and business improvement services in Kentucky manufacturing facilities, through the network of Kentucky Technology Service locations in the state, that lead to the development of new product lines, additional value-added products, and new manufacturing methods;

(c) Coordinate services for and support the activities of Kentucky manufacturers that need additional projects, activities, and expertise beyond those available through the Kentucky Technology Service, Inc.;

(d) Promote, along with other economic development entities, the development of supplier chains, the linkages among suppliers, and the growth of clusters within the Commonwealth; and

(e) Provide to the Cabinet for Economic Development and Kentucky Innovation Commission a report of the advances made in the manufacturing modernization projects initiated.

Section 20. The General Assembly directs the Kentucky Science and Technology Corporation to conduct an entrepreneurial audit of appropriate statutes, regulations, and policies that may currently provide obstacles to business development in the information technology and knowledge-based sectors, and to report its findings and recommendations to the General Assembly, the Governor, and Kentucky Innovation Commission no later than September 1, 2001.

Section 21. The General Assembly directs the Kentucky Science and Technology Corporation to create and manage the Kentucky Science and Engineering Foundation as a means to increase Kentucky's capacity to become a leader state in competitive research by attracting more research funding from all sources to the Commonwealth. The Kentucky Science and Engineering Foundation shall be a means to extend and expand the highly successful Kentucky Experimental Program to Stimulate Competitive Research, known as EPSCoR, which has leveraged state matching funds to bring additional federal research dollars to Kentucky, giving a return on the state's investment in this program by a multiple of three for every dollar of state funds invested in EPSCoR. The Kentucky Science and Engineering Foundation, expanding on the existing EPSCoR program and funding, shall be modeled in part on the National Science Foundation and shall make its own investments in peer-reviewed science and engineering research, to accelerate the rate of research and development funds and work to increase the amount of federal and private sector funds for this work in Kentucky.

Section 22. The General Assembly realizes that while certain Kentucky manufacturing sectors have experienced impressive growth in the last two decades, the global economy of the twenty-first century requires profound changes if citizens of the Commonwealth are to be players in the American and world economy. Information technology, communications, and intellectual capital, rather than energy and raw materials, power today's economy. The driving forces of the new economy are ideas, knowledge services, and higher-order skills. The following findings related to the current state of the Commonwealth indicate our need for immediate legislative action:

(1) In the area of innovation and invention, Kentucky currently underperforms no less than 46 other states in production of patents per million population;

(2) In the area of education, in 1998 only 4% of Kentucky's twelfth-graders took advanced placement courses in science, and only 44% of these students passed advanced placement science exams, and for the last decade Kentucky has ranked no better than 45th in the number of science and engineering graduate students per 100,000 population;

(3) In the area of research, Kentucky receives only 2.8 of the Small Business Innovation Research grants per 100,000 population, compared to 116.2 grants in the top-performing states, and for the last decade Kentucky has ranked no better than 46th in research and development expenditures per person; and

(4) In the area of entrepreneurship, in 1998 Kentucky created only 2.4 new firms per 1,000 state residents compared to leader states creating almost 7 companies per 1,000 residents, and despite recent gains, in 1999 Kentucky ranked 47th in the number of very fast growth companies in the country, and in 1997, Kentucky ranked 48th in self-employment, and

Kentucky has had no technology sector initial public offerings issued from 1997 through October 1999.

Section 23. This Act shall be called the Kentucky Innovation Act.

HB 911, AN ACT relating to excise taxes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 138.344 is amended to read as follows:

(1) Except as otherwise provided in KRS 138.220 to 138.500, any person who shall purchase gasoline or special fuel, on which the tax as imposed by KRS 138.220 has been paid, for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, or who shall purchase special fuels, on which the tax as imposed by KRS 138.220 has been paid, for consumption in unlicensed vehicles or equipment for nonhighway purposes shall be reimbursed for the tax so paid on the gasoline or special fuel. No refund shall be authorized unless applications and all necessary information are filed with the cabinet on a calendar quarter or calendar year basis on forms and in the manner prescribed by it for refund of the tax paid on the fuel. In lieu of the tax refund procedure herein, the tax on special fuels~~[for operating or propelling stationary engines or tractors for agricultural purposes]~~ may be credited by the dealer to the purchaser as provided in KRS 138.358. The dealer and the purchases shall be subject to the same rules, conditions and responsibilities as provided in KRS 138.344 to 138.355. The tax shall be refunded with interest at the tax interest rate as defined in KRS 131.010(6).

(2) The information to be required from the permit holder, by the cabinet, in order that the refund may be allowed, shall be as follows:

(a) Name and address of permit holder .... permit number .....

(b) Total number of gallons purchased .... and total purchase price ..... (Invoices to be attached to refund application.)

(c) Total number of gallons used on highways .....

(d) Total number of gallons on which refund is claimed ..... (Line b minus line c.)

(e) Other information as the cabinet may require to reasonably protect the revenues of the Commonwealth.

Section 2. KRS 138.358 is amended to read as follows:

(1) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a tank having no dispensing outlet and used exclusively to heat a personal residence, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively to heat the personal residence to which it is delivered. No person so certifying shall use the special fuel for any other purpose. Special fuel delivered into a tank having no dispensing outlet and used exclusively to heat a commercial building shall be subject to refund pursuant to KRS 138.351 to 138.355. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

(2) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for the purpose of operating or propelling stationary engines or tractors for agricultural purposes. No person so certifying shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

(3) Any special fuels dealer who delivers special fuels, on which the tax imposed by KRS 138.220 has been paid, into a nonhighway use storage tank of a resident nonprofit religious, charitable, or educational organization or state or local governmental agency which has qualified for exemption from Kentucky sales and use tax pursuant to KRS 139.470(7) or 139.495 shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement certifying the purchaser's sales and use tax purchase exemption authorization issued pursuant to KRS Chapter 139. No organization or agency so certifying shall use or allow the use of any nonhighway special fuel so acquired for any purpose other than fueling unlicensed vehicles or equipment for nonhighway purposes. The Revenue Cabinet may require dealers claiming the credit authorized herein to submit information required by the cabinet to reasonably protect the revenues of the Commonwealth.

(4) Any special fuels dealer who sells special fuels, on which the tax imposed by KRS 138.220 has been paid, which shall be used exclusively for consumption in unlicensed vehicles or equipment for nonhighway purposes, shall be entitled to claim a credit against the tax due pursuant to KRS 138.220 equal to the tax paid on the fuel if the dealer obtains from the purchaser and retains in his files a signed and dated statement from the purchaser certifying that the fuel will be used exclusively for nonhighway purposes. No person making the certification shall use the special fuels for any other purpose. Sales made from a retail filling station do not qualify for the credit. The Revenue Cabinet may require dealers claiming the credit authorized in this subsection to submit information required by the cabinet to reasonably protect the

revenues of the Commonwealth. This credit shall not apply to special fuels taxes subject to a refund under KRS 138.445.

HB 996, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes of thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation, and twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section, and one and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl, one-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81, fifteen cents ($0.15) upon machinery actually engaged in manufacturing, fifteen cents ($0.15) upon commercial radio, television and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna, fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300, one-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390, twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043, and forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other property directed to be assessed for taxation shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the

preceding year's assessment by more than four percent (4%)***, exclusive of the assessment resulting from new property as defined in KRS 132.010***. In any year in which the aggregate assessed value of real property is less than the preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, ***exclusive of the assessment resulting from new property as defined in KRS 132.010,*** the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

The Committee Substitute No. 1 to **HB 996** is as follows:

HB 996, AN ACT relating to revenue and taxation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 136 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act and KRS 136.073, 136.076, and 136.078:

(1) "Book value" means the value shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year;

(2) "Business entity" means a:

- ***(a) Formally incorporated entity;***
- ***(b) Domestic limited liability company as defined in KRS 275.015 which is treated as a corporation for federal income tax purposes;***
- ***(c) Foreign limited liability company as defined in KRS 275.015 which is treated as a corporation for federal income tax purposes; or***
- ***(d) Registered limited liability partnership as defined in KRS 362.155(7) which is treated as a corporation for federal income tax purposes.***

"Business entity" does not include any single member limited liability company which is disregarded as an entity separate from its member for federal income tax purposes and shall be disregarded as an entity separate from its member for business entity license tax purposes.

(3) "Cabinet" means the Revenue Cabinet;

(4) "Capital" means the total book value of capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed money, or partnership or member's capital accounts;

(5) "Consolidated return" means a business entity license tax return filed by a qualifying business entity with all related business entities in accordance with subsection (1)(b) of Section 3 of this Act in which the business entities are treated as a single business entity for purposes of determining and reporting capital, taxable capital, tax liability, and credits;

(6) "Individual" means a natural person;

(7) "Ownership interest" means any unit into which the proprietary interest in a limited liability company or a limited liability partnership is divided;

(8) "Qualifying business entity" means any business entity whose commercial domicile is in this state and is subject to tax in accordance with subsection (1) of Section 2 of this Act that directly owns stock, securities, or an ownership interest of other business entities, the total book value of which is equal to or greater than fifty percent (50%) of the book value of the qualifying business entity's total assets;

(9) "Related business entity" means any business entity other than a business entity exempted by paragraphs (a) to (h) of subsection (1) of Section 2 of this Act in which the qualifying business entity directly or indirectly owns more than fifty percent (50%) of the outstanding stock or ownership interest;

(10) "Security" means any note, bond, debenture, or evidence of indebtedness;

(11) "Separate return" means a business entity license tax return filed by a single business entity for purposes of determining and reporting capital, taxable capital, tax liability, and credits;

(12) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof;

(13) "Stock" means any share of stock, certificate of stock, or other unit into which the proprietary interest in a corporation is divided;

(14) "Taxable in another state" means, for the purpose of allocation and apportionment of capital under subsection (3) of Section 2 of this Act, a business entity required, in any state other than Kentucky, to file a return for or pay a net income tax, a franchise tax measured by net income, a franchise tax for the privilege of doing business, or a corporate stock tax; and

(15) "Taxable year" means the period for which a return is required to be filed for federal income tax purposes.

Section 2. KRS 136.070 is amended to read as follows:

(1) Every ***business entity***[~~corporation~~] organized under the laws of this state, every ***business entity***[~~corporation~~] having its commercial domicile in this state, and every foreign ***business entity***[~~corporation~~] owning or leasing property located in this state or having one (1) or more individuals receiving compensation in this state, except ***those business entities listed in paragraphs (a) to (h) of this subsection***[~~financial institutions as defined in KRS 136.500, savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only, open-end registered investment companies organized under the laws of this state and registered under the Investment Company Act of 1940, production credit associations, insurance companies, including farmers' or other mutual hail, cyclone, windstorm or fire insurance companies, insurers and reciprocal underwriters, public service companies subject to taxation under KRS 136.120, those corporations exempted by Section 501 of the Internal Revenue Code, any property or facility which has been certified as an alcohol production facility as defined in KRS 247.910, any property or facility which has been certified as a fluidized bed energy production facility as defined in KRS 211.390, and any other religious, educational, charitable, or like corporations not organized or conducted for pecuniary profit,~~] shall pay to the state an annual ***business entity*** license tax of two dollars and ten cents ($2.10) on each one thousand dollars ($1,000) of the capital employed in the business as computed under the provisions of subsections (2) and (3) of this section, subject to the credit provided in subsection (6) of this section. ***The following business entities are not subject to the tax imposed by this subsection:***

(a) Financial institutions as defined in KRS 136.500;

(b) Savings and loan associations organized under the laws of this state and under the laws of the United States and making loans to members only;

(c) Open-end registered investment companies organized under the laws of this state and registered under the Federal Investment Company Act of 1940;

(d) Production credit associations;

(e) Insurance companies, including farmers' or other mutual hail, cyclone, windstorm, or fire insurance companies, insurers, and reciprocal underwriters;

(f) Public service companies subject to taxation under Section 36 of this Act;

(g) Those business entities exempted by Section 501 of the Internal Revenue Code, or any other religious,

educational, charitable, or like business entities not organized or conducted for pecuniary profit; and

(h) For taxable years beginning after December 31, 2000, companies principally engaged in the provision of communication services. For the purposes of this section, "companies principally engaged in the provision of communications services" means any company that derives more than fifty percent (50%) of its gross receipts from the provision of communications services as defined by Section 7 of this Act.

(2) (a) ***"Taxable capital", in the case of business entities taxable only in this state, means capital as defined in Section 1 of this Act***[~~The term "capital" as used in this section means capital stock, surplus, advances by affiliated companies, intercompany accounts, borrowed moneys or any other accounts representing additional capital used and employed in the business. Accounts properly defined as "capital" in this section shall be reported at the value reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year~~];

(b) " ***Taxable*** capital[~~ employed,~~]" in the case of ***business entities taxable in this state and taxable in another state means "capital" as defined in Section 1 of this Act and as apportioned under subsection (3) of this section***[~~corporations having property or payroll only in this state, means "capital" as defined above;~~

~~(c) "Capital employed," in the case of corporations having property or payroll both within and without this state means "capital" as defined above and as apportioned under subsection (3) of this section;~~

~~(d) Property means either real property or tangible personal property which is either owned or leased. Payroll means compensation, paid to one (1) or more individuals, as described in subsection (3) of this section. Property and payroll are deemed to be entirely within this state if all other states are prohibited by Public Law 86-272, as it existed on December 31, 1975, from enforcing income tax jurisdiction~~].

(3) ***Capital***[~~The total capital, as determined under subsection (2) of this section,~~] shall be apportioned as follows:

(a) The total capital shall be multiplied by a fraction, the numerator of which is the property factor plus the payroll factor, plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used;

(b) The property factor is a fraction, the numerator of which is the average value of the ***business entity's***[~~taxpayer's~~] real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the ***business entity's***[~~taxpayer's~~] real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor:

1. Property owned by the ***business entity***[~~taxpayer~~] is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero, such property shall be valued by the cabinet under ***administrative*** regulations promulgated by the cabinet. Property rented by the ***business entity***[~~taxpayer~~] is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the taxpayer less any annual rental rate received by the ***business entity***[~~taxpayer~~] from subrentals, ***if the***[~~provided that such~~] rental and ***the***[~~such~~] subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if nominal or zero rate is charged, the cabinet may determine and apply ***the***[~~such~~] rental rate as will reasonably reflect the value of the property rented by the ***business entity***[~~taxpayer~~]; and

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the ***business entity's***[~~taxpayer's~~] property;

(c) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the ***business entity***[~~taxpayer~~] for compensation, and the denominator of which is the total compensation paid or payable everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state;

(d) The sales factor is a fraction, the numerator of which is the total sales of the ***business entity***[~~taxpayer~~] in this state during the tax period, and the denominator of which is the total sales of the ***business entity***[~~taxpayer~~] everywhere during the tax period. Sales of tangible personal property are in this state if:

1. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale;
2. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government; or
3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(4) If the apportionment provisions of this section do not fairly measure the ***business entity's***[~~taxpayer's~~] capital in this state, the ***business entity***[~~taxpayer~~] may petition for or the cabinet may require:

(a) The exclusion of any one (1) or more of the factors;

(b) The inclusion of one (1) or more additional factors which will fairly measure the ***business entity's***[~~taxpayer's~~] capital in this state; or

(c) The employment of any other method to produce an equitable apportionment of the taxpayer's capital.

(5) No ***business entity subject to taxation***[~~corporation required to pay an annual license tax~~] under this section shall pay less than thirty dollars ($30) ***for each taxable year***.

(6) Every ***business entity***[~~corporation~~] with a gross income of not more than five hundred thousand dollars ($500,000) shall be entitled to a credit equivalent to one dollar and forty cents ($1.40) per one thousand dollars ($1,000) of the initial three hundred and fifty thousand dollars ($350,000) of ***taxable*** capital[~~, employed in the business,~~] as computed under the provisions of KRS 136.070(2) and (3).

Section 3. KRS 136.071 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter, a ***qualifying business entity may***[~~corporation whose commercial domicile is in this state and holds directly or indirectly stock or securities in other corporations equal to or greater than fifty percent (50%) of its total assets may, at the option of the taxpayer, be considered as one (1) corporation for purposes of determining and apportioning total "capital," or compute its "capital" under KRS 136.070(2) as follows~~]:

(a) ***File a separate return and deduct from capital the book value of its investment in the stock, ownership interest, or securities in any business entity in which it directly owns more than fifty percent (50%) of the outstanding stock or ownership interest; or***[~~Determine the corporation's total capital as provided in KRS 136.070(2).~~]

(b) ***File a consolidated return with all related business entities***[~~Deduct from the amount determined in subsection (a) of this section, the book value of its investment in the stock and securities of any corporation in which it owns more than fifty percent (50%) of the outstanding stock of such corporation~~].

(2) ***All transactions between business entities included in the consolidated return shall be eliminated in computing capital, taxable capital, and the property, payroll, and sales factors in accordance with subsection (4) of Section 1 of this Act and with subsections (2) and (3) of Section 2 of this Act, respectively***[~~For purposes of determining the ratio of stock and securities to total assets, the value shall be the value of the accounts as reflected on financial statements prepared for book purposes as of the last day of the calendar or fiscal year. The term "stock and securities" as used in this section means shares of stock in any corporation, certificates of stock or interest in any corporation, notes, bonds, debentures, and evidences of indebtedness. The term "book value" means the value as shown on financial statements prepared for book purposes as of the last day of the calendar or fiscal year~~].

(3) Every business entity included as a member of a group of related business entities filing a consolidated return shall be jointly and severally liable for the consolidated business entities' license tax liability, except that any business entity that was not a member of the group for the entire taxable year shall be jointly and severally liable only for that portion of the consolidated business entity license tax liability attributable to that portion of the year that the business entity was a member of the group.

Section 4. KRS 136.090 is amended to read as follows:

(1) ***(a) Every business entity subject to tax under Section 2 of this Act shall for each taxable year, file a separate return unless the business entity was, for the taxable year, a member of a group of related business entities filing a consolidated return in accordance with subsection (1) of Section 3 of this Act.***

(b) Every return shall be submitted on forms prescribed by the cabinet and shall be signed by the managing partner or member, president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer of the business entity[~~Corporations liable to taxation under KRS 136.070 shall file with the Revenue Cabinet each year, on forms prepared by the cabinet, a return signed by the president, vice president, secretary, treasurer, assistant secretary, assistant treasurer, or chief accounting officer. This report shall give the name of the corporation; the name of the state or government under the laws of which it is incorporated; the date of incorporation; the place of its principal office in and out of this state; the name and address of its president and secretary; the name and address of its authorized agent or attorney upon whom process may be executed in this~~

~~state; the name and address of the officer or agent in charge of its business in this state; and the nature and kind of business in which it is engaged~~].

(2) ***Every return shall state:***

(a) The name of the business entity;

(b) The name of the state or government under the laws of which it is organized;

(c) The date of organization;

(d) The place of its principal office in and out of this state;

(e) The name and address of its president, managing partner or member, and secretary;

(f) The name and address of the officer, managing partner or member, or agent in charge of its business in this state;

(g) The nature and kind of business in which it is engaged; and

(h) Other facts as the cabinet may require[~~The report shall also give the total value of all the property owned and used by the corporation; the value of the property owned and used by it in this state; the aggregate amount of business transacted by it during the preceding calendar year or fiscal year; the amount of such business transacted in this state; and such other facts as the cabinet requires~~].

Section 5. KRS 136.100 is amended to read as follows:

(1) If the ***business entity's taxable year is***[~~corporation operates~~] on a calendar year basis, the ***return***[~~reports~~] required under KRS 136.090 shall be filed on or before April 15 ***of***[~~in~~] each year. If the ***business entity's taxable year is***[~~corporation operates~~] on a fiscal year basis, the ***return***[~~reports~~] shall be filed on or before the fifteenth day of the fourth month following the close of each fiscal year. The reports shall cover operations for the preceding calendar or fiscal year, as the case may be. [~~Domestic corporations hereafter incorporated, and foreign corporations hereafter becoming the owners of property or transacting business in this state, shall make their reports to the Revenue Cabinet on or before the first filing date succeeding their incorporation or succeeding their becoming the owners of property or transacting business in this state, and shall in all respects be subject to the provisions of KRS 136.070 to 136.100 the same as corporations already in existence.~~]

(2) ***(a) Capital on any return made for a period of less than one (1) year shall be calculated in the same manner as on a return made for a twelve (12) month period.***

(b) If any return is made by a business entity for a period of less than one (1) year, the tax liability after application of the credit authorized in subsection (6) of Section 2 of this Act shall be multiplied by a fraction:

1. The numerator of which is the number of days in the period; and

2. The denominator of which is three hundred sixty-five (365)[~~A corporation may change its reporting period from a calendar year to a fiscal year, or from a fiscal year to a calendar year, by securing written permission from the cabinet. If a corporation so changes its basis of reporting, the first report filed on the new filing date shall cover operations for the period between the close of the old accounting period and the close of the new accounting period. The assessment of value shall be computed in the same manner as on any other return, but the tax due shall be computed on that proportionate part of the assessment that the period between the close of the old accounting period and the close of the new accounting period bears to the entire twelve (12) month period~~].

(3) In any case where two (2) or more ***business entities***[~~corporations~~] merge, consolidate***,*** or otherwise combine into a single ***business entity***[~~corporation~~] after the close of the taxable year, but before the beginning of the succeeding taxable year, ***capital, taxable capital, and the property, payroll, and sales factors of the single business entity***[~~all factors used to determine the corporation license tax assessment~~] shall be computed on the basis of the consolidated accounting records of ***the business entities***[~~such corporations~~].

Section 6. KRS 132.020 is amended to read as follows:

(1) An annual ad valorem tax for state purposes ***shall be paid by the owner or person assessed, except as provided in this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property, for the following types of property:***[~~of~~]

(a) Thirty-one and one-half cents ($0.315) upon each one hundred dollars ($100) of value of all real property directed to be assessed for taxation***;***[~~, and~~]

(b) One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all privately-owned leasehold interests in industrial buildings, as defined under KRS 103.200, owned and financed by a tax-exempt governmental unit, or tax-exempt statutory authority under the provisions of KRS Chapter 103 directed to be assessed for taxation, except that the rate shall not apply to the proportion of value of the leasehold interest created through any private financing***;***[~~, and~~]

(c) One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of all tobacco directed to be assessed for taxation***;***~~[, and]~~

(d) Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of all money in hand, shares of stock, notes, bonds, accounts, and other credits, whether secured by mortgage, pledge, or otherwise, or unsecured, except as otherwise provided in subsection (2) of this section***;***~~[, and]~~

(e) One and one-half cents ($0.015) upon each one hundred dollars ($100) of value of unmanufactured agricultural products***;***~~[,]~~

(f) One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all farm implements and farm machinery owned by or leased to a person actually engaged in farming and used in his farm operations***;***~~[,]~~

(g) One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all livestock and domestic fowl***;***~~[,]~~

(h) One-tenth of one cent ($0.001) upon each one hundred dollars ($100) of value of all tangible personal property located in a foreign trade zone as designated under 19 U.S.C. sec. 81***;***~~[,]~~

(i) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of*** machinery actually engaged in manufacturing***;***~~[,]~~

(j) Fifteen cents ($0.15) upon ***each one hundred dollars ($100) of value of*** commercial radio, television, and telephonic equipment directly used or associated with electronic equipment which broadcasts electronic signals to an antenna***;***~~[,]~~

(k) Fifteen cents ($0.15) upon property which has been certified as a pollution control facility as defined in KRS 224.01-300***;***~~[,]~~

(l) One-tenth of one cent ($0.001) upon property which has been certified as an alcohol production facility as defined in KRS 247.910, or as a fluidized bed energy production facility as defined in KRS 211.390***;***~~[,]~~

(m) Twenty-five cents ($0.25) upon each one hundred dollars ($100) of value of motor vehicles qualifying for permanent registration as historic motor vehicles under the provisions of KRS 186.043***;***~~[, and]~~

(n) Forty-five cents ($0.45) upon each one hundred dollars ($100) of value of all other ***tangible personal*** property directed to be assessed for taxation~~[shall be paid by the owner or person assessed, except as provided in subsection (2) of this section and KRS 132.030, 132.050, 132.200, 136.300, 136.320, and other sections providing a different tax rate for particular property]~~.

(2) (a) An annual ad valorem tax for state purposes of one and one-half cents ($0.015) upon each one hundred dollars ($100) of value shall be paid upon the following classes of intangible personal properties, when the intangible personal properties have not acquired a taxable situs without this state:

1. Accounts receivable, notes, bonds, credits, and any other intangible property rights arising out of or created in the course of regular and continuing business transactions substantially performed outside this state;
2. Patents, trademarks, copyrights, and licensing or royalty agreements relating to these;
3. Shares of capital stock of any affiliated company as defined in subsection (3) of this section and notes, bonds, accounts receivable, and all other intercompany intangible personal property due from the company; and
4. Tobacco base allotments.

(b) An annual ad valorem tax for state purposes of one-thousandth of one percent (0.001%) shall be paid upon money in hand, shares of stock, notes, bonds, accounts, credits, and other intangible assets, whether by mortgage, pledge, or otherwise, or unsecured, of financial institutions, as defined in KRS 136.500.

(3) "Affiliated company" shall mean a parent corporation or subsidiary corporation, and any corporation principally engaged in business outside the United States in which the owner or the person assessed directly or indirectly owns or controls not less than ten percent (10%) of the outstanding voting stock.

(4) With respect to the intangible properties taxed pursuant to subsection (2) of this section, no other ad valorem tax shall be levied by the state or any county, city, school, or other taxing district on the intangible properties, or directly or indirectly against the owner.

(5) Thirty cents ($0.30) of the thirty-one and one-half cents ($0.315) state tax rate on real property and thirty cents ($0.30) of the forty-five cents ($0.45) state tax on tangible personalty subject to local taxation shall be considered as local school district tax levies for purposes of computing any direct payments of state or federal funds to said districts as replacement for ad valorem taxes lost on property acquired by a governmental agency. Should the equivalency ever be less than thirty cents ($0.30), as certified by the Department of Education, the direct payments shall be reduced proportionately.

(6) The provisions of subsection (1) of this section notwithstanding, the state tax rate on real property shall be reduced to compensate for any increase in the aggregate assessed value of real property to the extent that the increase exceeds the preceding year's assessment by more than four percent (4%) ***exclusive of the assessment resulting from new property as defined in Section 34 of this Act***. In any year in which the aggregate assessed value of real property is less than the

preceding year, the state rate shall be increased to the extent necessary to produce the approximate amount of revenue that was produced in the preceding year from real property.

(7) By July 1 each year, the cabinet shall compute the state tax rate applicable to real property for the current year in accordance with the provisions of subsection (5) of this section and certify the rate to the county clerks for their use in preparing the tax bills. If the assessments for all counties have not been certified by July 1, the cabinet shall, when either real property assessments of at least seventy-five percent (75%) of the total number of counties of the Commonwealth have been determined to be acceptable by the cabinet, or when the number of counties having at least seventy-five percent (75%) of the total real property assessment for the previous year have been determined to be acceptable by the cabinet, make an estimate of the real property assessments of the uncertified counties and compute the state tax rate.

(8) If the tax rate set by the cabinet as provided in subsection (6) of this section produces more than a four percent (4%) increase in real property tax revenues, ***exclusive of the assessment resulting from new property as defined in Section 34 of this Act,*** the rate shall be adjusted in the succeeding year so that the cumulative total of each year's property tax revenue increase shall not exceed four percent (4%) per year.

(9) The provisions of subsection (6) of this section notwithstanding, the assessed value of unmined coal certified by the cabinet after July 1, 1994, shall not be included with the assessed value of other real property in determining the state real property tax rate. All omitted unmined coal assessments made after July 1, 1994, shall also be excluded from the provisions of subsection (6) of this section. The calculated rate shall, however, be applied to unmined coal property, and the state revenue shall be devoted to the program described in KRS 146.550 through 146.570, except that four hundred thousand dollars ($400,000) of the state revenue shall be paid annually to the State Treasury and credited to the Coal Marketing and Export Council for the purpose of public education of coal-related issues.

(10) Effective on or after January 1, 1990, an ad valorem tax for state purposes of five cents ($0.05) upon each one hundred dollars ($100) of value shall be paid upon goods held for sale in the regular course of business, which, on or after January 1, 1999, includes machinery and equipment held in a retailer's inventory for sale or lease originating under a floor plan financing arrangement; and raw materials, which includes distilled spirits and distilled spirits inventory, and in-process materials, which includes distilled spirits and distilled spirits inventory, held for incorporation in finished goods held for sale in the regular course of business.

(11) An ad valorem tax for state purposes of ten cents ($0.10) per one hundred dollars ($100) of assessed value shall be paid on the operating property of railroads or railway companies that operate solely within the Commonwealth.

(12) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on aircraft not used in the business of transporting persons or property for compensation or hire.

(13) An ad valorem tax for state purposes of one and one-half cents ($0.015) per one hundred dollars ($100) of assessed value shall be paid on federally documented vessels not used in the business of transporting persons or property for compensation or hire, or for other commercial purposes.

SECTION 7. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

As used in Sections 7 to 33 of this Act:

(1) "Cabinet" means the Revenue Cabinet;

(2) "Cable service" means the provision of video or other programming service to purchasers, and the purchaser interaction, if any, required for the selection or use of the video or other programming service, regardless of whether the programming is transmitted over facilities owned or operated by the provider or by one (1) or more other communications service providers. "Cable service" includes, but is not limited to, basic, extended, and premium service; pay-per-view service; and digital or other music service;

(3) "Communications service" means the provision, transmission, conveyance, or routing, for a consideration, of voice, data, video, or any other information or signals of the purchaser's choosing to a point, or between or among points, specified by the purchaser, by or through any electronic, radio, light, fiber optics, or any similar medium or method now in existence or hereafter devised. "Communications service" includes, but is not limited to, local telephone services, long-distance telephone services, telegraph services, teletypewriter services, teleconferencing services, private line services involving a direct channel specifically dedicated to a customer's use between specific points, channel services involving a path of communications between two (2) or more points, data transport services involving the movement of encoded information between points by means of any electronic, radio, or other medium or method, caller ID services, voice mail and other electronic messaging services, Internet telephony involving telephone service in which messages originate or terminate over the public switched telephone network but are transmitted in part using transmission control protocol, Internet protocol, or other similar means, mobile communications service, cable service, satellite broadcast, satellite master antenna television, and wireless cable service, including direct to home satellite service as defined in Section 602 of the Federal 1996 Cable Act. "Communications service" does not include any of the following if the charges for the goods or services are separately itemized on the bill provided to the purchaser:

(a) Information services;

(b) Internet access service to the extent prohibited by federal law;

(c) Installation, reinstallation, or maintenance of wiring or equipment on a customer's premises. However, this provision does not apply to any charge attributable to the connection, movement, change, or termination of a communication service;

(d) The sale or rental of tangible personal property subject to the tax imposed by KRS Chapter 139;

(e) The sale of directory and other advertising and listing services; or

(f) Billing and collection services provided to another communications service provider;

(4) "Engaged in business" means:

(a) Having any employee, representative, agent, salesman, canvasser, or solicitor operating in this state, under the authority of the provider, its subsidiary, or related entity, for the purpose of taking orders;

(b) Having real or tangible personal property in this state;

(c) Providing communications service by or through facilities located in this state; or

(d) Being required under KRS Chapter 139 to collect and remit sales and use tax;

(5) "In this state" or "in the state" means within the exterior limits of the Commonwealth of Kentucky and includes all territory within these limits owned by or ceded to the United States of America;

(6) "Mobile communications service" includes, but is not limited to, any one-way or two-way radio communications service carried on between mobile stations or receivers and land stations, and by mobile stations communicating among themselves, and includes, but is not limited to, cellular communications service, personal communications service, paging service, specialized mobile radio service, and any other form of mobile one-way or two-way communications service;

(7) "Person" means and includes any individual, firm, corporation, joint venture, association, social club, fraternal organization, general partnership, limited partnership, limited liability partnership, limited liability company, nonprofit entity, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, governmental unit or agency, or any other group or combination acting as a unit;

(8) "Political subdivision" means any political subdivision as defined in KRS 61.420, excluding the Commonwealth of Kentucky, and which currently levies on any provider or its customers any of the following fees or taxes:

(a) Utility gross receipts tax under KRS 160.613 and 160.614;

(b) The public service corporation property tax under KRS 136.120; or

(c) Any local franchise fees;

(9) "Prepaid calling arrangement" means any right to purchase communications service, which must be paid in advance and which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed. "Prepaid calling arrangement" includes, but is not limited to, prepaid cards and prepaid accounts which are decremented as calls take place;

(10) "Provider" means any person engaged in the business of selling communications service;

(11) "Purchaser" means the person paying for communications service;

(12) "Resale" means the purchase of a communications service by a provider required to collect the tax levied by Section 8 of this Act for sale or incorporation into a communications service for sale, including, but not limited to:

(a) Carrier access charges;

(b) Right of access charges;

(c) Interconnection charges paid by the provider of mobile communications service or other communications service;

(d) Charges paid by cable service providers for transmission of video or other programming by another provider over facilities owned or operated by the other provider;

(e) Charges for the sale of unbundled network elements as defined in 47 U.S.C. sec. 153(29) on January 1, 2000, to which access is provided on an unbundled basis pursuant to 47 U.S.C. sec. 251(c)(3); or

(f) Any other charges for the use of facilities for providing or receiving communication services;

(13) "Retail purchase" means any purchase of a communications service for any purpose other than resale;

(14) "Sale" means the furnishing of a communications service for consideration;

(15) (a) "Sales price" means the total amount billed by a provider for the sale of communications service in this state valued in money, whether paid in money or otherwise, without any deduction on account of the following:

1. Any charge attributable to the connection, movement, change, or termination of a communications service;

2. Any charge for detail billing; or

3. Any charge for bundled transactions, where goods and services are sold as a single package for one (1) price.

(b) "Sales price" does not include any of the following:

1. Charges for installation, reinstallation, or maintenance of wiring or equipment on a customer's premises;

2. Charges for the sale or rental of tangible personal property;

3. Charges for the sale of directory and other advertising and listings;

4. Charges for billing and collection services provided to another communications service provider;

5. Bad check charges;

6. Late payment charges;

7. The sale or usage of a prepaid calling arrangement; or

8. Any excise tax, sales tax, or similar tax, fee, or assessment levied by the United States or any state or local political subdivision, including but not limited to emergency telephone surcharges, upon the purchase, sale, use, or consumption of any communications service, which is permitted or required to be added to the purchase price of the communications service;

(16) "Satellite broadcast and wireless cable service" means point-to-multipoint distribution services that include, but are not limited to, direct broadcast satellite service and multichannel multipoint distribution services, with programming or voice transmitted or broadcast by satellite, microwave, or any other equipment directly to the purchaser's premise. "Satellite broadcast and wireless cable service" includes, but is not limited to, basic, extended, and premium service; pay-per-view service; digital or other music service; and two-way service; and

(17) "Service address" means:

(a) In the case of cable, satellite broadcast, satellite master antenna television, direct-to-home, and wireless cable service, the location where the purchaser receives the service in this state;

(b) In the case of any other communications service, the location of communications equipment from which communications service is originated or at which communications service is received by the purchaser. In the event that this is not a defined location, as in the case of mobile phones, paging systems, maritime systems, air-to-ground systems, third number and calling card calls, "service address" means the location of the purchaser's primary use of the communications equipment, as determined by telephone number, authorization code, the purchaser's billing address, or other street address provided by the purchaser as the location of primary use, but the address must be within the licensed service area of the communications service provider;

(c) In the case of a communications service paid through a credit or payment mechanism that does not relate to a service address, such as a bank, travel, debit, or credit card, the service address is deemed to be the address of the origination of the communications service; and

(d) In the case of mobile communications service provided under intercarrier roaming agreements, the service address shall be deemed to be the physical location of the serving carrier's switch that originates or terminates the call.

SECTION 8. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) A communications excise tax is hereby imposed on the retail purchase of communications service which is charged to a service address in this state, regardless of where those amounts are billed or paid, when the communications service:

(a) Originates and terminates in this state;

(b) Originates in this state; or

(c) Terminates in this state.

(2) The communications excise tax rate shall be seven percent (7%) of the sales price charged for communications service that is billed on or after December 1, 2000.

SECTION 9. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The tax imposed by Section 8 of this Act shall be collected by the provider from the purchaser. The provider shall give the purchaser a receipt for the tax collected. The provider shall separately state the tax billed from all other charges on such receipt.

(2) Every purchaser is liable for the tax imposed by Section 8 of this Act. The liability is not extinguished until the tax has been paid to this state, except that a receipt from a provider registered under Section 13 of this Act reflecting that the provider has billed the tax, with evidence that the purchaser has paid the tax, is sufficient to relieve the purchaser from further liability for the tax to which the receipt refers.

SECTION 10. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The following services are excluded from the tax imposed by Section 8 of this Act:

(1) Communications services the purchase of which is prohibited from taxation under the Constitution or laws of the United States; and

(2) Communications services provided to any cabinet, department, bureau, commission, board, or other statutory or constitutional agency of the state and communications services provided to counties, cities, school districts, or special districts as defined in KRS 65.005. This exemption shall apply only to purchases for use solely in the government function. A purchaser not qualifying as a governmental agency or unit shall not be entitled to the exemption even though the purchaser may be the recipient of public funds or grants.

SECTION 11. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The tax or any part thereof required by Section 9 of this Act to be collected by the communications service provider from the purchaser shall:

(1) Be deemed to be held in trust by the provider for and on account of the Commonwealth of Kentucky; and

(2) Constitute a debt owed by the provider to this state.

SECTION 12. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

A provider is authorized to take as a deduction from the tax due under Section 8 of this Act, the amount of communications excise tax paid in a prior reporting period on any debt or account receivable arising from the sale of communications service which has become worthless and charged off for income tax purposes. If any charged off communications excise tax is thereafter in whole or in part collected by the provider, the amount so collected shall be included in the first return filed after collection.

SECTION 13. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Every communications service provider required to collect the tax imposed on the sale of communications service by Section 9 of this Act shall file an application for a certificate of registration with the cabinet. The application shall be in the form prescribed by the cabinet. The application shall be signed by the owner if a natural person; in the case of an association or partnership, by a member or partner; or in the case of a corporation, by an executive officer or some person specifically authorized by the corporation to sign the application.

SECTION 14. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The taxes required to be collected by Section 9 of this Act are due and payable to the cabinet monthly and shall be remitted on or before the twentieth day of the next succeeding calendar month.

SECTION 15. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

To prevent actual multistate taxation of a communications service subject to taxation under Section 8 of this Act, any provider or purchaser, upon proof that the provider or purchaser has paid a tax in another state on the same communications service, shall be allowed a credit against the tax imposed by Section 8 of this Act to the extent of the amount of the tax legally paid in the other state.

SECTION 16. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) On or before the twentieth day of each month, a return for the preceding month shall be filed with the cabinet in the form prescribed by the cabinet, together with payment of any tax due.

(2) A return shall be filed by every provider. The return shall be signed by the person required to file the return or a duly authorized agent.

(3) In the case of a return filed by a provider, the return shall show the amount billed for communications services by the provider during the reporting period. The return shall also show the amount of taxes billed during the period covered by the return and other information as the cabinet deems necessary for the proper administration of Sections 7 to 33 of this Act.

(4) The person required to file the return shall deliver the return, together with a remittance of the amount of tax due, to the cabinet.

(5) For the purpose of facilitating the administration, payment, or collection of the taxes levied under Section 8 of this Act, the cabinet may permit or require returns to be filed or tax payment to be made other than as specifically required by the provisions of this section.

(6) In the case of a return filed by a purchaser, the return shall show the total amount paid for communications service that became subject to tax during the reporting period.

SECTION 17. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall, upon written request received on or prior to the due date of the return or tax, for good cause satisfactory to the cabinet, extend the time for filing the return under Section 16 of this Act or paying the tax for a period not to exceed thirty (30) days.

(2) Any person for which the extension is granted shall pay, in addition to the tax, interest at the tax interest rate as

defined in KRS 131.010(6) from the date on which the tax would otherwise have been due.

SECTION 18. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) As soon as practicable after each return filed under Section 16 of this Act is received, the cabinet shall examine it. If the amount of tax computed by the cabinet is greater than the amount returned by the taxpayer, the excess shall be assessed by the cabinet within four (4) years from the later of the date the return was filed or due, except in the case of a failure to file a return or a fraudulent return, the excess may be assessed at any time. A notice of assessment shall be mailed to the provider. The provider and the cabinet may agree to extend this time period.

(2) Any provider aggrieved by any action of the cabinet may request a review and shall have the rights of appeal as set forth in KRS Chapter 131.

SECTION 19. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

In making a determination of tax liability under Section 8 of this Act, the cabinet may offset overpayments for a period or periods, together with interest on the overpayments, against underpayments for another period or periods, against penalties, and against the interest on the underpayments.

SECTION 20. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Every provider and purchaser shall keep records, receipts, invoices, and other pertinent papers in such form as the cabinet may require.

(2) Every provider and purchaser who files the returns required under Section 16 of this Act shall keep records for not less than four (4) years from the making of the records unless the cabinet in writing authorizes their destruction at an earlier date.

SECTION 21. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

In every case, any tax due under Section 8 of this Act that is not paid on or before the due date shall bear interest at the tax interest rate as defined in KRS 131.010(6) from the date due until the date of payment.

SECTION 22. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The taxes paid under Section 8 of this Act shall be refunded or credited in the manner provided in KRS 134.580.

(2) A claim for refund or credit shall be made on a form prescribed by the cabinet and shall contain all information as the cabinet may require.

(3) No provider shall be entitled to a refund or credit of the taxes paid under Section 8 of this Act where the taxes have been collected from a purchaser unless the amount of taxes collected from the purchaser are refunded to him by the provider who paid the taxes to the State Treasury.

SECTION 23. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

The cabinet shall administer the provisions of Sections 7 to 33 of this Act and shall have all of the powers, rights, duties, and authority with respect to the assessment, collection, refunding, and administration of the taxes levied by this chapter, conferred generally upon the cabinet by the Kentucky Revised Statutes including KRS Chapters 131, 134, and 135.

SECTION 24. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Whenever it is deemed necessary to ensure compliance with Sections 7 to 33 of this Act, the cabinet may require any person required to collect the taxes imposed by Section 8 of this Act to place security with it. The amount of the security shall be fixed by the cabinet but shall not be greater than three (3) times the estimated average monthly liability of the provider. This limitation shall apply regardless of the type of security placed with the cabinet.

(2) The amount of the security may be increased or decreased by the cabinet subject to the limitations provided in subsection (1) of this section.

(3) If necessary, the cabinet may sell the security at public auction to recover any tax, interest, or penalty due. However, security in the form of a bearer bond issued by the United States or any state or local governmental unit which has a prevailing market price may be sold by the cabinet at a private sale at a price not lower than the prevailing market price.

(4) The cabinet shall provide notice by certified mail, sent to the last known address as reflected in the records of the cabinet, or by delivery, to the person who placed the security with the cabinet of the date, time, and place of the sale.

(5) For the purposes of subsection (4) of this section, "delivery" means mailing the notice to the person to whom it is addressed, leaving it at his place of business with the person in charge of the place of business, or, if there is no one in charge, leaving it in a conspicuous place at the place of business. If the place of business is closed or the person to be served has no place of business, "delivery" includes:

(a) Leaving it at his or her home with some person of suitable age and discretion residing in the home;

(b) Serving it upon the agent for service process; or

(c) Any other method permitted by the Kentucky Revised Statutes.

(6) Notice by certified mail shall be postmarked no later than ten (10) days prior to the sale.

(7) Any surplus above the amounts due to the cabinet after the sale shall be returned to the person who placed the security.

SECTION 25. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) (a) Notwithstanding any other provisions of this chapter, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of Section 8 of this Act shall be personally and individually liable, both jointly and severally, for the taxes imposed under Section 8 of this Act. Neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the taxes become or became due. No person shall be personally and individually liable under this subsection if that person did not have authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due.

(b) "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.010(6) and all applicable penalties and fees imposed under this chapter and under KRS 131.180, 131.410 to 131.445 and 131.990.

(2) (a) Notwithstanding any other provision of KRS 275.150 or 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of Section 8 of this Act shall be personally and individually liable, both jointly and severally, for the taxes imposed under Section 8 of this Act, and neither the dissolution nor withdrawal of the limited liability company or registered limited liability partnership from the state nor the cessation of holding any office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due.

(b) "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183 and all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

SECTION 26. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

No suit shall be maintained in any court to restrain or delay the collection or payment of the tax levied by Section 8 of this Act.

SECTION 27. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Any provider required to collect the communications excise tax imposed by Section 8 of this Act that fails to file a return as required by Section 16 of this Act or fails to pay the tax as listed on the return shall not maintain an action, suit, or proceeding in any court or before any agency in this state or enforce in any way any obligation of any debts until the return is filed and the tax listed on the return is paid. This provision does not prohibit a provider from the appeal rights afforded by KRS Chapter 131.

SECTION 28. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

Penalties for violating Sections 7 to 33 of this Act shall be imposed and assessed in accordance with the provisions of KRS 131.180.

SECTION 29. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to be known as the "Communications Excise Tax Fund," to be held and administered by the Finance and Administration Cabinet. The moneys in the communications excise tax fund shall be invested by the Finance and Administration Cabinet in the same manner as moneys in the state general fund.

(2) The communications excise tax imposed under Section 8 of this Act, including any penalties or interest attributable to the nonpayment of such tax or for noncompliance with the provisions of Sections 7 to 33 of this Act, shall be collected by the cabinet and deposited in the communications excise tax fund.

(3) All amounts derived from the levy and collection of the tax imposed under Section 8 of this Act shall be transferred as follows:

(a) One-third of one percent (0.33%) shall be deposited in a trust and agency account created in the State Treasury to be used by the cabinet for administration costs associated with the implementation, collection, and distribution of the communications excise tax;

(b) An amount equal to two-sevenths (2/7) of the total amount collected, less the amount authorized by paragraph (a) of this subsection, shall be transferred to the general fund of the state; and

(c) The remaining five-sevenths (5/7) of the total amount collected, less the amount authorized by paragraph (a) of this subsection shall be transferred to the communications excise tax state and local government hold harmless fund created by Section 30 of this Act.

(4) The communications excise tax collected under Section 9 of this Act and designated for distribution to political subdivisions by Sections 30 and 31 of this Act shall be considered a local effort.

(5) The communications excise tax imposed under Section 8 of this Act and designated for distribution to political subdivisions shall not be withheld by the General Assembly or a state agency for any reason.

(6) The communications excise tax designated for distribution to political subdivisions under Sections 30 and 31 of this Act shall constitute an inviolate trust on behalf of the political subdivisions and not subject to reduction by the General Assembly or a state agency.

(7) All amounts distributed to political subdivisions from the communications excise tax under Sections 30 and 31 of this Act shall be used solely and exclusively for the provision of services to the general public, including but not limited to public protection, health services, education, libraries, transportation services, recreation facilities and services, and economic development. Neither the General Assembly nor any state agency shall mandate how the funds received by a political subdivision under Sections 30 and 31 of this Act shall be utilized.

(8) In no event shall any amount distributed to a political subdivision under Sections 30 and 31 of this Act be used for any purely local purpose affecting only the inhabitants of the particular political subdivision, including the administration of local government.

SECTION 30. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to be known as the "Communications Excise Tax State and Local Government Hold Harmless Fund," to be held and administered by the Finance and Administration Cabinet. The moneys in the communications excise tax state and local government hold harmless fund shall be invested by the Finance and Administration Cabinet in the same manner as moneys in the state general fund.

(2) By or before December 1, 2000, each political subdivision shall certify on a form prescribed by the cabinet that it will participate in the communications excise tax state and local government hold harmless fund and the communications excise tax local growth fund.

(a) As part of the certification, the political subdivision shall certify to the cabinet the amount of collections the political subdivision received from the taxes authorized under KRS 160.613, 160.614, the intangible portion of KRS 136.120, and local franchise fees collected from communications service providers or their customers for the period of July 1, 1998, through June 30, 1999.

(b) The monthly average of the amount certified by the political subdivisions shall be the "monthly hold harmless amount" of each political subdivision's portion of the communications excise tax state and local government hold harmless fund.

(c) By certifying the amount of collections described above, the political subdivision:

1. Consents to the hearing process as provided under Section 32 of this Act; and

2. Agrees to voluntarily relinquish its right to enforce any provision of a contract or agreement that requires the payment of a franchise fee or tax on communications service regardless of whether the franchise fee or tax is imposed on the provider or its customer.

(d) If in the period after June 30, 1999, and before December 31, 1999, any political subdivision had a substantial change in its tax base by:

1. Enacting a tax or modifying the rate under KRS 160.613 or 160.614; or

2. Enacting or modifying the rate of a local franchise fee, the affected political subdivision may request that the cabinet make a determination of what the political subdivision's "monthly hold harmless amount" will be.

(3) The cabinet shall distribute the moneys in the communications excise tax state and local government hold harmless fund as follows:

(a) The cabinet shall pay out of the fund and distribute monthly to the various participating political subdivisions of the state the "monthly hold harmless amounts" as determined in subsection (2)(b) of this section. Any overpayment to a political subdivision or any payment to a political subdivision in error may be adjusted by the cabinet on any subsequent payment to the political subdivision.

1. For tax collections remitted to the cabinet by providers for December 2000 and January 2001, the cabinet shall distribute to each participating political subdivision its "monthly hold harmless amount" on or before March 25, 2001; and

2. For all other periods, the cabinet shall distribute to each participating political subdivision its "monthly hold harmless amount" by the twenty-fifth day of the next calendar month following remittance by the *providers to the cabinet.*

(b) The balance remaining in the state and local government hold harmless fund after payment of the "monthly hold harmless amounts" shall be appropriated as follows:

1. An amount equal to sixty-five percent (65%) of the total money transfer from the communications excise tax fund to the communications excise tax state and local government hold harmless fund, if available, shall be transferred to the general fund of the state; and

2. The remaining balance in the communications excise tax state and local government hold harmless fund shall be transferred to the communications excise tax local growth fund created by Section 31 of this Act.

(4) If a political subdivision believes its historical data used to determine its "monthly hold harmless amount" is inaccurate, the political subdivision may request a redetermination of its "monthly hold harmless amount" by the oversight committee. Any redetermination shall be effective prospectively beginning with the next distribution cycle occurring ninety (90) days after the matter is finally settled.

SECTION 31. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established a fund to be known as the "Communications Excise Tax Local Growth Fund," to be held and administered by the Finance and Administration Cabinet. The moneys in the communications excise tax local growth fund shall be invested by the Finance and Administration Cabinet in the same manner as moneys in the state general fund.

(2) The money transferred from the communications excise tax state and local hold harmless fund shall be accounted for in the communications excise tax local growth fund based on the ratio of the communications excise tax collected on communications services provided in each county to the total statewide collections of the communications excise tax.

(3) The cabinet shall distribute the moneys in the communications excise tax growth fund to each participating political subdivision in the following manner:

(a) By or before December 1, 2000, and every January 31 following the year 2001, each participating political subdivision shall certify to the cabinet its total local government tax receipts for the prior fiscal year. This amount shall be used to calculate the percentage of each political subdivision's portion of the account labeled under its county's name within the communications excise tax local growth fund.

(b) By certifying the total local government tax receipts as described in paragraph (a) of this subsection, the political subdivision voluntarily relinquishes its right to enforce any provision of a contract or agreement that requires the payment of a franchise fee or tax on communications services regardless of whether the franchise fee or tax is imposed on the provider or its customer.

(c) Beginning on March 25, 2001, each political subdivision's monthly distribution share of the communications excise tax local growth fund shall be determined by its political subdivision's percentage, as determined in paragraph (a) of this subsection, multiplied by the amount credited monthly in the communications excise tax local growth fund account labeled for the county in which the political subdivision is located.

(d) Every July 1 following the year 2001, each political subdivision's distribution share of the communications excise tax local growth fund shall be adjusted based on its political subdivision's percentage, as determined in paragraph (a) of this subsection, multiplied by the amount credited monthly in the communications excise tax local growth fund account labeled for the county in which the political subdivision is located.

(e) The cabinet shall pay out of the communications excise tax local growth fund a monthly distribution to the various participating political subdivisions of the state the amount as determined in paragraph (c) or (d) of this subsection. These monthly distributions shall be made on the same basis as outlined in Section 30 of this Act for the communications excise tax state and local government hold harmless fund. Any overpayment to a political subdivision or any payment to a political subdivision in error may be adjusted by the cabinet on any subsequent payment to the political subdivision.

(f) For purposes of this section:

1. "Political subdivision" means school districts, municipal corporations, or fiscal courts;

2. "Local government tax receipts" means all revenue received from the following sources:

a. Real estate and tangible personal property taxes, including delinquent tax receipts;

b. Franchise fees or taxes on noncommunication utilities;

c. Occupational and business license fees including but not limited to insurance premium taxes, net profits taxes, payroll taxes, transient room taxes, restaurant taxes, and bank deposit taxes;

d. Utility gross receipts license taxes;

e. Telephone emergency surcharges;

f. Communications excise tax hold harmless fund and local growth fund receipts; and *g. Payments in lieu of taxes; and*

3. "Local government tax receipts" shall not include:

a. Intergovernmental revenues;

b. Charges for services;

c. Tuition;

d. Interfund transfers;

e. Interest and investment income;

f. Rental income;

g. Income from sale of assets;

h. Revenue from licenses and permits; and

i. Beginning balances.

SECTION 32. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) The Communications Excise Tax Distribution Fund Oversight Committee is hereby created and administratively attached to the cabinet. The oversight committee shall consist of nine (9) members appointed by the Governor and shall be representative of local government and state governmental officials. The Governor shall receive recommendations for four (4) members each from the Kentucky Association of Counties and the Kentucky League of Cities from which the Governor shall select two (2) members each. The Governor shall receive recommendations for two (2) members each from the Kentucky School Board Association, the Kentucky Superintendents Association, and the Kentucky School Administrators Association from which the Governor shall select one (1) member each. The remaining two (2) members shall be appointed by the Governor as at-large members. The members shall serve for a term of three (3) years. Five (5) members of the oversight committee shall constitute a quorum. A member may be removed for cause in accordance with procedures established by the oversight committee and shall serve without salary but shall be reimbursed for expenses in the same manner as state employees. Any vacancy occurring on the oversight committee shall be filled by the Governor for the unexpired term.

(2) The duties of the Communications Excise Tax Distribution Fund Oversight Committee are:

(a) Monitoring the cabinet's implementation of the communications excise tax fund, the communication excise tax state and local government hold harmless fund, the communications excise tax local growth fund, any impact Sections 7 to 33 of this Act may have on commissions received by sheriffs from the collection of property taxes and to report their findings to the secretary of the cabinet; and

(b) Acting as a finder of fact for the secretary of the cabinet in disputes in and between political subdivisions and between political subdivisions and the cabinet regarding the implementation of the communications excise state and local government hold harmless fund and the communications excise tax local growth fund.

(3) The cabinet shall provide the oversight committee with an annual report reflecting the amounts distributed to each participating political subdivision.

(4) Any political subdivision may file a complaint with the oversight committee on a form prescribed by the committee.

(5) The oversight committee shall give notice to any political subdivision which may be affected by the complaint. Any political subdivision intending to respond to the complaint must do so in writing within thirty (30) days of notice of the complaint.

(a) The oversight committee shall give due notice of the times and places of its hearings.

(b) The parties shall be entitled to be heard, to present evidence, and to examine and cross-examine witnesses.

(c) The oversight committee shall act by majority vote.

(d) The oversight committee shall promulgate administrative regulations prescribing rules of procedure and practice regarding its hearings.

(e) The oversight committee shall make recommendations to the secretary.

(6) The secretary of the cabinet shall review the findings of the oversight committee and issue a final ruling within sixty (60) days of receipt of the recommendations.

(7) The parties in the dispute shall have the rights and duties to appeal any final ruling to the Kentucky Board of Tax Appeals and the courts pursuant to KRS 131.340.

(8) Nothing contained in the section shall prevent at any time a written compromise of any matter or matters in dispute, if otherwise lawful, by the parties to the hearing process.

SECTION 33. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Except as provided in subsection (3) of this section, to the extent legally permissible, every political subdivision of this state shall be prohibited from the following:

(a) Levying any franchise fee or tax on communications service, or collecting any franchise fee or tax from providers or purchasers of communications service;

(b) Requiring any provider, including, but not limited to, cable service providers, to enter into or extend the term of a franchise or other agreement that requires the payment of a franchise fee or tax; or

(c) Enforcing any provision of any ordinance or agreement to the extent that the provision obligates a provider to pay to the political subdivision a franchise fee or tax.

(2) For purposes of this section, a "franchise fee or tax" means any tax, charge, fee, or in-kind payment of property or services that is required by ordinance or agreement to be paid or furnished to a political subdivision by or through a provider, in its capacity as a provider, regardless of whether such tax, charge, fee, or in-kind payment of property or services is:

(a) Designated as a franchise fee, sales tax, excise tax, user fee, occupancy fee, subscriber charge, license fee, pole fee, tower fee, base station fee, or otherwise;

(b) Measured by the amounts charged for services, the type or amount of equipment or facilities deployed, or otherwise;

(c) Intended as compensation for the use of public or private rights-of-way, the right to conduct business, or otherwise; or

(d) Permitted or required to be separately stated on the purchaser's bill.

(3) The prohibitions in subsection (1) of this section shall not apply to:

(a) Ad valorem taxes levied under Section 6 of this Act;

(b) Emergency telephone surcharges;

(c) Surety bonds;

(d) In-kind payments of property or services under existing contracts;

(e) Letters of credit designed to protect against damages to public rights-of-way for violations of regulatory requirements;

(f) Permit or inspection fees of general applicability that are:

1. Related to construction in the rights-of-way; and

2. Levied solely to defray the actual costs of administering the permitting process or inspection program; or

(g) Amounts imposed on a provider by a political subdivision for the provider's use of facilities owned by the political subdivision, such as pole attachment fees and similar charges, but excluding rights-of-way, in each case only to the extent that the provider is imposing similar amounts on other providers for the use of facilities owned by the provider.

(4) Notwithstanding any provision of law to the contrary, if a political subdivision imposes or otherwise attempts to require the payment of a franchise fee or tax described in subsection (2) of this section, the political subdivision shall not receive any share of the proceeds of the tax levied by Section 8 of this Act for the period that the imposition or attempt occurs.

(5) To the extent that a provider actually pays a franchise fee or tax described in subsection (2) of this section with respect to communications service that is also subject to the tax imposed by Section 8 of this Act, the provider shall be entitled to a credit against the amount paid to the cabinet under Section 9 of this Act in the amount of the franchise fee or tax up to the amount of the excise tax billed with respect to the communications service.

(6) Nothing in this section shall:

(a) Prohibit a provider from donating property or services to a political subdivision; or

(b) Prohibit a political subdivision from receiving donated property or services.

Section 34. KRS 132.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Cabinet" means the Revenue Cabinet.

(2) "Taxpayer" means any person made liable by law to file a return or pay a tax.

(3) "Real property" includes all lands within this state and improvements thereon. ***With respect to property of companies principally engaged in the provision of communications service as defined in subsection (1)(h) of Section 2 of this Act, real property shall mean only land and buildings permanently affixed to land and shall not include portable buildings, towers, pole lines, transmission lines, conduit and cable, whether above or below ground, and all similar property.***

(4) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(5) "Resident" means any person who has taken up a place of abode within this state with the intention of continuing to abide in this state; any person who has had his actual or habitual place of abode in this state for the larger portion of the twelve

(12) months next preceding the date as of which an assessment is due to be made shall be deemed to have intended to become a resident of this state.

(6) "Compensating tax rate" means that rate which, rounded to the next higher one-tenth of one cent ($0.001) per one hundred dollars ($100) of assessed value and applied to the current year's assessment of the property subject to taxation by a taxing district, excluding new property and personal property, produces an amount of revenue approximately equal to that produced in the preceding year from real property. However, in no event shall the compensating tax rate be a rate which, when applied to the total current year assessment of all classes of taxable property, produces an amount of revenue less than was produced in the preceding year from all classes of taxable property. For purposes of this subsection, "property subject to taxation" means the total fair cash value of all property subject to full local rates, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution and the difference between the fair cash value and agricultural or horticultural value of agricultural or horticultural land.

(7) "Net assessment growth" means the difference between:

(a) The total valuation of property subject to taxation by the county, city, school district, or special district in the preceding year, less the total valuation exempted from taxation by the homestead exemption provision of the Constitution in the current year over that exempted in the preceding year, and

(b) The total valuation of property subject to taxation by the county, city, school district, or special district for the current year.

(8) "New property" means the net difference in taxable value between real property additions and deletions to the property tax roll for the current year. "Real property additions" shall mean:

(a) Property annexed or incorporated by a municipal corporation, or any other taxing jurisdiction; however, this definition shall not apply to property acquired through the merger or consolidation of school districts, or the transfer of property from one (1) school district to another;

(b) Property, the ownership of which has been transferred from a tax-exempt entity to a nontax-exempt entity;

(c) The value of improvements to existing nonresidential property;

(d) The value of new residential improvements to property;

(e) The value of improvements to existing residential property when the improvement increases the assessed value of the property by fifty percent (50%) or more;

(f) Property created by the subdivision of unimproved property, provided, that when such property is reclassified from farm to subdivision by the property valuation administrator, the value of such property as a farm shall be a deletion from that category;

(g) Property exempt from taxation, as an inducement for industrial or business use, at the expiration of its tax exempt status;

(h) Property, the tax rate of which will change, according to the provisions of KRS 82.085, to reflect additional urban services to be provided by the taxing jurisdiction, provided, however, that such property shall be considered "real property additions" only in proportion to the additional urban services to be provided to the property over the urban services previously provided; and

(i) The value of improvements to real property previously under assessment moratorium.

"Real property deletions" shall be limited to the value of real property removed from, or reduced over the preceding year on, the property tax roll for the current year.

(9) "Agricultural land" means any tract of land, including all income-producing improvements, of at least ten (10) contiguous acres in area used for the production of livestock, livestock products, poultry, poultry products and/or the growing of tobacco and/or other crops including timber, or where devoted to and meeting the requirements and qualifications for payments pursuant to agriculture programs under an agreement with the state or federal government.

(10) "Horticultural land" means any tract of land, including all income-producing improvements, of at least five (5) contiguous acres in area commercially used for the cultivation of a garden, orchard, or the raising of fruits or nuts, vegetables, flowers, or ornamental plants.

(11) "Agricultural or horticultural value" means the use value of "agricultural or horticultural land" based upon income-producing capability and comparable sales of farmland purchased for farm purposes where the price is indicative of farm use value, excluding sales representing purchases for farm expansion, better accessibility, and other factors which inflate the purchase price beyond farm use value, if any, considering the following factors as they affect a taxable unit:

(a) Relative percentages of tillable land, pasture land, and woodland;

(b) Degree of productivity of the soil;

(c) Risk of flooding;

(d) Improvements to and on the land that relate to the production of income;

(e) Row crop capability including allotted crops other than tobacco;

(f) Accessibility to all-weather roads and markets; and

(g) Factors which affect the general agricultural or horticultural economy, such as: interest, price of farm products, cost of farm materials and supplies, labor, or any economic factor which would affect net farm income.

(12) "Deferred tax" means the difference in the tax based on agricultural or horticultural value and the tax based on fair cash value.

(13) "Homestead" means real property maintained as the permanent residence of the owner with all land and improvements adjoining and contiguous thereto including, but not limited to, lawns, drives, flower or vegetable gardens, outbuildings, and all other land connected thereto.

(14) "Residential unit" means all or that part of real property occupied as the permanent residence of the owner.

(15) "Special benefits" are those which are provided by public works not financed through the general tax levy but through special assessments against the benefited property.

(16) "Mobile home" means a structure, transportable in one (1) or more sections, which when erected on site measures eight (8) body feet or more in width and thirty-two (32) body feet or more in length, and which is built on a permanent chassis and designed to be used as a dwelling, with or without a permanent foundation, when connected to the required utilities, and includes the plumbing, heating, air-conditioning, and electrical systems contained therein. It may be used as a place of residence, business, profession, or trade by the owner, lessee, or their assigns and may consist of one (1) or more units that can be attached or joined together to comprise an integral unit or condominium structure.

(17) "Recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The basic entities are: travel trailer, camping trailer, truck camper, and motor home.

(a) Travel trailer: A vehicular unit, mounted on wheels, designed to provide temporary living quarters for recreational, camping, or travel use, and of such size or weight as not to require special highway movement permits when drawn by a motorized vehicle, and with a living area of less than two hundred twenty (220) square feet, excluding built-in equipment (such as wardrobes, closets, cabinets, kitchen units or fixtures) and bath and toilet rooms.

(b) Camping trailer: A vehicular portable unit mounted on wheels and constructed with collapsible partial side walls which fold for towing by another vehicle and unfold at the camp site to provide temporary living quarters for recreational, camping, or travel use.

(c) Truck camper: A portable unit constructed to provide temporary living quarters for recreational, travel, or camping use, consisting of a roof, floor, and sides, designed to be loaded onto and unloaded from the bed of a pick-up truck.

(d) Motor home: A vehicular unit designed to provide temporary living quarters for recreational, camping, or travel use built on or permanently attached to a self-propelled motor vehicle chassis or on a chassis cab or van which is an integral part of the completed vehicle.

SECTION 35. A NEW SECTION OF KRS CHAPTER 132 IS CREATED TO READ AS FOLLOWS:

(1) The cabinet shall have sole power to value and assess all of the tangible personal property of companies principally engaged in the provision of communications services, whether or not the property has previously been assessed by the cabinet, and shall allocate the assessment as provided in subsection (2) of this section, and shall certify property subject to local taxation to the counties, cities, and taxing districts as provided in subsection (3) of this section. All of the property assessed by the cabinet under this section shall be assessed as of January 1 each year, and the lien therefor shall attach as of the assessment date. In the case of companies which are not principally engaged in the provision of communications service, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the property is devoted to communications service subject to assessment by the cabinet under this section and shall require the remainder of the property to be assessed by the local taxing authorities. For purposes of this paragraph, "companies principally engaged in the provision of communications services" has the same meaning as that described in subsection (1)(h) of Section 2 of this Act.

(2) The cabinet shall allocate the assessed value of communications property in this state among the counties, cities, and taxing districts. The assessed value shall be allocated to the county, city, or taxing district where the property is situated.

(3) The cabinet shall, immediately after fixing the assessed value of the property of a communications service provider for taxation, notify the corporation of the valuation and the amount of assessment for state and local purposes. When the valuation has been finally determined, the cabinet shall immediately certify, unless otherwise specified, to the county clerk of each county in which any of the property assessment of the corporation is subject to local taxation, the amount of property subject to county, city, or district tax.

(4) No appeal shall delay the collection or payment of taxes based upon the assessment in controversy. The taxpayer shall pay all state, county, and district taxes due on the valuation which the taxpayer claims as the true value as stated in the protest filed under KRS 131.110. When the valuation is finally determined upon appeal, the taxpayer shall be billed for

any additional tax and interest at the tax interest rate as defined in KRS 131.010(6), from the date the tax would have become due if no appeal had been taken. The provisions of KRS 134.390 shall apply to the tax bill.

(5) The certification of valuation shall be filed by each county clerk in the clerk's office and shall be certified by the county clerk to the proper collecting officer of the county, city, or taxing district for collection. Any district which has the value certified by the Revenue Cabinet shall pay an annual fee to the Revenue Cabinet which represents an allocation of Revenue Cabinet operating and overhead expenses incurred in generating the valuations. This fee shall be determined by the cabinet and shall apply to valuations for tax periods beginning on or after December 31, 2000.

Section 36. KRS 136.120 is amended to read as follows:

(1) Every railway company, sleeping car company, chair car company, dining car company, gas company, water company, ferry company, bridge company, street railway company, interurban electric railroad company, express company, electric light company, electric power company,[~~ telephone company, telegraph company,~~] commercial air carrier, air freight carrier, pipeline company, common carrier water transportation company, privately owned regulated sewer company,[~~ cable television company,~~] municipal solid waste disposal facility, as defined by KRS 224.01-010(15), where solid waste is disposed by landfilling, railroad car line company, which means any company, other than a railroad company, which owns, uses, furnishes, leases, rents, or operates to, from, through, in, or across this state or any part thereof, any kind of railroad car including, but not limited to, flat, tank, refrigerator, passenger, or similar type car, and every other like company or business performing any public service, except bus line companies, regular and irregular route common carrier trucking companies,[~~ and~~] taxicab companies, ***and providers required to collect the tax levied under Section 8 of this Act,*** shall annually pay a tax on its operating property to the state and to the extent the property is liable to taxation shall pay a local tax thereon to the county, incorporated city, and taxing district in which its operating property is located.

(2) The property of the taxpayers shall be classified as operating property, nonoperating tangible property, and nonoperating intangible property. Nonoperating intangible property within the taxing jurisdiction of the Commonwealth shall be taxable for state purposes only at the same rate as the intangible property of other taxpayers not performing public services, and operating property and nonoperating tangible property shall be subject to state and local taxes at the same rate as the tangible property of other taxpayers not performing public services.

(3) The Revenue Cabinet shall have sole power to value and assess all of the property of every corporation, company, association, partnership, or person performing any public service, including those enumerated above and all others to whom this section may apply, whether or not the operating property, nonoperating tangible property, or nonoperating intangible property has heretofore been assessed by the cabinet, and shall allocate the assessment as provided by KRS 136.170, and shall certify operating property liable to local taxation and nonoperating tangible property to the counties, cities, and taxing districts as provided in KRS 136.180. All of the property assessed by the cabinet pursuant to this section shall be assessed as of December 31 each year for the following year's taxes, and the lien therefor shall attach as of the assessment date. In the case of a taxpayer whose business is predominantly nonpublic service and the public service business in which he is engaged is merely incidental to his principal business, the cabinet shall in the exercise of its judgment and discretion determine, from evidence which it may have or obtain, what portion of the operating property is devoted to the public service business subject to assessment by the cabinet under this section and shall require the remainder of the property not so engaged to be assessed by the local taxing authorities.

Section 37. KRS 139.100 is amended to read as follows:

(1) "Retail sale" or "sale at retail" means:

(a) 1. A sale for any purpose other than resale in the regular course of business of tangible personal property, or

2. The furnishing of the facilities and services mentioned in subsection (2) of this section;

(b) The delivery in this state of tangible personal property by an owner or former owner thereof or by a factor, or agent of such owner, former owner or factor, if the delivery is to a consumer or person for redelivery to a consumer pursuant to a retail sale made by a retailer not engaged in business in this state. The person making the delivery shall include the retail selling price of the property in his gross receipts.

(2) "Retail sale" or "sale at retail" shall include but shall not be limited to the following:

(a) The rental of any room or rooms, lodgings, or accommodations furnished by any hotel, motel, inn, tourist camp, tourist cabin, or any other place in which rooms, lodgings, or accommodations are regularly furnished to transients for a consideration. The tax shall not apply, however, to rooms, lodgings, or accommodations supplied for a continuous period of thirty (30) days or more to an individual;

(b) The furnishing of sewer services[~~ and intrastate telephonic and telegraphic communications and services~~];

(c) The sale of admissions, except, those taxed under KRS 138.480.

Section 38. KRS 139.160 is amended to read as follows:

"Tangible personal property" means personal property which may be seen, weighed, measured, felt or touched, or which is in any other manner perceptible to the senses and includes natural, artificial and mixed gas, electricity,[~~ and~~] water***, and prepaid calling arrangements. For the purposes of this chapter, "prepaid calling arrangement" means the exclusive purchase of***

communications service, paid for in advance, which enables the origination of calls using an access number or authorization code, whether manually or electronically dialed.

Section 39. KRS 141.120 is amended to read as follows:

(1) As used in this section, unless the context requires otherwise:

(a) "Business income" means income arising from transactions and activity in the regular course of a trade or business of the corporation and includes income from tangible and intangible property if the acquisition, management, or disposition of the property constitutes integral parts of the corporation's regular trade or business operations;

(b) "Commercial domicile" means the principal place from which the trade or business of the corporation is managed;

(c) "Compensation" means wages, salaries, commissions, and any other form of remuneration paid or payable to employees for personal services;

(d) "Financial organization" means any bank, trust company, savings bank, industrial bank, land bank, safe deposit company, private banker, savings and loan association, credit union, cooperative bank, investment company, or any type of insurance company;

(e) "Nonbusiness income" means all income other than business income;

(f) "Public service company" means any business entity subject to taxation under KRS 136.120;

(g) "Sales" means all gross receipts of the corporation not allocated under subsections (3) ***to***[~~through~~] (7) of this section;

(h) "State" means any state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof.

(2) Any corporation which is required by KRS 141.010(14)(b) to allocate and apportion its net income shall allocate and apportion its net income as provided in this section.

(3) Rents and royalties from real, intangible or tangible personal property, capital gains and losses, interest, or patent or copyright royalties, to the extent that they constitute nonbusiness income, shall be allocated as provided in subsections (4) ***to***[~~through~~] (7) of this section.

(4) (a) Net rents and royalties from real property located in this state are allocable to this state.

(b) Net rents and royalties from tangible personal property are allocable to this state if and to the extent that the property is utilized in this state; or in their entirety if the corporation's commercial domicile is in this state and the corporation is not organized under the laws of or taxable in the state in which the property is utilized.

(c) The extent of utilization of tangible personal property in a state is determined by multiplying the rents and royalties by a fraction, the numerator of which is the number of days of physical location of the property in the state during the rental or royalty period in the taxable year and the denominator of which is the number of days of physical location of the property everywhere during all rental or royalty periods in the taxable year. If the physical location of the property during the rental or royalty period is unknown or unascertainable by the corporation, the tangible personalty is utilized in the state in which the property was located at the time the rental or royalty payer obtained possession.

(d) Net rents and royalties from intangible personal property located in this state are allocable to this state. For purposes of this section, royalties from property leased in Kentucky shall be considered as royalties from intangible personal property.

(5) (a) Capital gains and losses from sales or other dispositions of real property located in this state are allocable to this state.

(b) Capital gains and losses from sales or other dispositions of tangible personal property are allocable to this state if the property had a situs in this state at the time of the sale, or the corporation's commercial domicile is in this state and the corporation is not taxable in the state in which the property had a situs.

(c) Capital gains and losses from sales or other dispositions of intangible personal property are allocable to this state if the corporation's commercial domicile is in this state.

(6) Interest is allocable to this state if the corporation's commercial domicile is in this state.

(7) (a) Patent and copyright royalties are allocable to this state if and to the extent that the patent or copyright is utilized by the payer in this state; or if and to the extent that the patent or copyright is utilized by the payer in a state in which the corporation is not taxable and the corporation's commercial domicile is in this state.

(b) A patent is utilized in a state to the extent that it is employed in production, fabrication, manufacturing, or other processing in the state or to the extent that a patented product is produced in the state. If the basis of receipts from patent royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the patent is utilized in the state in which the corporation's commercial domicile is located.

(c) A copyright is utilized in a state to the extent that printing or other publication originates in the state. If the basis of receipts from copyright royalties does not permit allocation to states or if the accounting procedures do not reflect states of utilization, the copyright is utilized in the state in which the corporation's commercial domicile is located.

(8) Except as provided for in subsection (9) of this section, all business income shall be apportioned to this state by multiplying the income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor, and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used.

(a) The property factor is a fraction, the numerator of which is the average value of the corporation's real and tangible personal property owned or rented and used in this state during the tax period and the denominator of which is the average value of all the corporation's real and tangible personal property owned or rented and used during the tax period; provided, however, that property which has been certified as a pollution control facility as defined in KRS 224.01-300 shall be excluded from the property factor.

1. Property owned is valued at its original cost. If the original cost of any property is not determinable or is nominal or zero (0) the property shall be valued by the cabinet pursuant to administrative regulations promulgated by the cabinet. Property rented is valued at eight (8) times the net annual rental rate. Net annual rental rate is the annual rental rate paid by the corporation less any annual rental rate received by the corporation from subrentals, provided that the rental and subrentals are reasonable. If the cabinet determines that the annual rental or subrental rate is unreasonable, or if a nominal or zero (0) rate is charged, the cabinet may determine and apply the rental rate as will reasonably reflect the value of the property rented by the corporation.

2. The average value of property shall be determined by averaging the values at the beginning and ending of the tax period but the cabinet may require the averaging of monthly values during the tax period if reasonably required to reflect properly the average value of the property.

(b) The payroll factor is a fraction, the numerator of which is the total amount paid or payable in this state during the tax period by the corporation for compensation, and the denominator of which is the total compensation paid or payable by the corporation everywhere during the tax period. Compensation is paid or payable in this state if:

1. The individual's service is performed entirely within the state;

2. The individual's service is performed both within and without the state, but the service performed without the state is incidental to the individual's service within the state; or

3. Some of the service is performed in the state and the base of operations or, if there is no base of operations, the place from which the service is directed or controlled is in the state, or the base of operations or the place from which the service is directed or controlled is not in any state in which some part of the service is performed, but the individual's residence is in this state.

(c) 1. The sales factor is a fraction, the numerator of which is the total sales of the corporation in this state during the tax period, and the denominator of which is the total sales of the corporation everywhere during the tax period.

2. Sales of tangible personal property are in this state if:

a. The property is delivered or shipped to a purchaser, other than the United States government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States government.

3. Sales, other than sales of tangible personal property, are in this state if the income-producing activity is performed in this state; or the income-producing activity is performed both in and outside this state and a greater proportion of the income-producing activity is performed in this state than in any other state, based on costs of performance.

(9) (a) If the allocation and apportionment provisions of this section do not fairly represent the extent of the corporation's business activity in this state, the corporation may petition for or the cabinet may require, in respect to all or any part of the corporation's business activity, if reasonable:

1. Separate accounting;

2. The exclusion of any one (1) or more of the factors;

3. The inclusion of one (1) or more additional factors which will fairly represent the corporation's business activity in this state; or

4. The employment of any other method to effectuate an equitable allocation and apportionment of income.

(b) A corporation may elect the allocation and apportionment methods for the corporation's business income provided for in subparagraphs 1. and 2. of this paragraph. The election, if made, shall be irrevocable for a period of five years.

1. All business income derived directly or indirectly from the sale of management, distribution, or administration services to or on behalf of regulated investment companies, as defined under the Internal Revenue Code of 1986, as amended, including trustees, and sponsors or participants of employee benefit plans which have accounts in a regulated investment company, shall be apportioned to this state only to the extent that shareholders of the investment company are domiciled in this state as follows:

a. Total business income shall be multiplied by a fraction, the numerator of which shall be Kentucky receipts from the services for the tax period and the denominator of which shall be the total receipts everywhere from the services for the tax period.

b. For purposes of subdivision a. of this subparagraph, Kentucky receipts shall be determined by multiplying total receipts for the tax period from each separate investment company for which the services are performed by a fraction. The numerator of the fraction shall be the average of the number of shares owned by the investment company's shareholders domiciled in this state at the beginning of and at the end of the investment company's taxable year, and the denominator of the fraction shall be the average of the number of the shares owned by the investment company shareholders everywhere at the beginning of and at the end of the investment company's taxable year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) ***to***~~[through]~~ (7) of this section.

2. All business income derived directly or indirectly from the sale of securities brokerage services by a business which operates within the boundaries of any area of the Commonwealth, which on June 30, 1992, was designated as a Kentucky Enterprise Zone, as defined in KRS 154.655(2), shall be apportioned to this state only to the extent that customers of the securities brokerage firm are domiciled in this state. The portion of business income apportioned to Kentucky shall be determined by multiplying the total business income from the sale of these services by a fraction determined in the following manner:

a. The numerator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by customers domiciled in Kentucky for the brokerage firm's taxable year; and

b. The denominator of the fraction shall be the brokerage commissions and total margin interest paid in respect of brokerage accounts owned by all of the brokerage firm's customers for that year.

c. Nonbusiness income shall be allocated to this state as provided in subsections (4) ***to***~~[through]~~ (7) of this section.

(10) Public service companies***, companies providing communications services as defined in Section 7 of this Act,*** and financial organizations required by KRS 141.010(14)(b) to allocate and apportion net income shall allocate and apportion such income as follows:

(a) Nonbusiness income shall be allocated to this state as provided in subsections (4) ***to***~~[through]~~ (7) of this section.

(b) Business income shall be apportioned to this state by multiplying the business income by a fraction, the numerator of which is the property factor plus the payroll factor plus the sales factor and the denominator of which is three (3); provided, however, that effective with taxable years beginning after July 31, 1985, in lieu of the equally weighted three (3) factor apportionment fraction based on property, payroll, and sales, an apportionment fraction composed of a sales factor representing fifty percent (50%) of the fraction, a property factor representing twenty-five percent (25%) of the fraction, and a payroll factor representing twenty-five percent (25%) of the fraction shall be used. The payroll factor shall be determined as provided in subsection (8)(b) of this section. The property factor and sales factor shall be determined as provided by administrative regulations promulgated by the cabinet.

(c) An affiliated group electing to file a consolidated return under KRS 141.200(3) that includes a public service company or financial organization shall determine the amount of payroll to be included in the apportionment factor as provided in subsection (8)(b) of this section. The amount of property and sales of the public service company or financial organization to be included in the apportionment factors of the affiliated group shall be determined in accordance with administrative regulations promulgated by the cabinet under paragraph (b) of this subsection.

(11) Nothing in this section shall be construed as allowing or requiring the filing of a combined return under the unitary business concept or a consolidated return.

Section 40. KRS 160.613 is amended to read as follows:

(1) There is hereby authorized a utility gross receipts license tax for schools not to exceed three percent (3%) of the gross receipts derived from the furnishing, within the county, of~~[telephonic and telegraphic communications services,]~~ electric

power, water, and natural, artificial, and mixed gas. "Gross receipts" includes all amounts received in money, credits, property, or other money's worth in any form, as consideration for the furnishing of the above utilities, except that "gross receipts" shall not include amounts received for furnishing energy or energy-producing fuels, used in the course of manufacturing, processing, mining, or refining to the extent that the cost of the energy or energy-producing fuels used exceeds three percent (3%) of the cost of production, and shall not include amounts received for furnishing any of the above utilities which are to be resold.

(2) In the event that any user of~~[telephonic and telegraphic communications services,]~~ electrical power, water, and natural, artificial, or mixed gas purchases the~~[telephonic and telegraphic communications services,]~~ electrical power, water, and natural, artificial, or mixed gas directly from any supplier who is exempt either by state or federal law from the utility gross receipts license tax under the provisions of subsection (1) of this section, then the consumer, if such tax has been levied in his district, shall be liable for the tax and shall pay directly to the county finance officer, in accordance with the provisions of KRS 160.615, a utility gross receipts license tax for schools computed by multiplying the gross cost of all~~[telephonic and telegraphic communications services,]~~ electrical power, water, and natural, artificial, or mixed gas received by the tax rate levied under the provisions of this section.

(3) "Gross cost" shall mean the total cost of the~~[telephonic and telegraphic communications,]~~ electrical power, water, and natural, artificial, or mixed gas including the cost of the tangible personal property and any services associated with obtaining the~~[telecommunication and telegraphic services or]~~ tangible personal property, such as gas, electricity, and water, regardless from whom purchased.

SECTION 41. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

To the extent that a person providing communications service, as defined by Section 7 of this Act, that is regulated as to rate by the Kentucky Public Service Commission, experiences a tax savings as a result of the provisions of Sections 7 to 36 of this Act, the savings shall inure proportionately to the benefit of all customers of the person, including residential, business, and interconnection services. This is meant to be a one-time adjustment and no additional adjustments shall be required.

SECTION 42. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) Notwithstanding any other provision of this chapter to the contrary, the president, vice president, secretary, treasurer, or any other person holding any equivalent corporate office of any corporation subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Corporate dissolution, withdrawal of the corporation from the state, or the cessation of holding any corporate office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every person holding a corporate office at the time the tax becomes or became due. No person shall be personally and individually liable under KRS 138.210 to 138.446 who had no authority in the management of the business or financial affairs of the corporation at the time the tax imposed by KRS 138.210 to 138.446 becomes or became due. "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

(2) Notwithstanding any other provision of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of KRS 138.210 to 138.446 shall be personally and individually liable, both jointly and severally, for the tax imposed under KRS 138.210 to 138.446. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the tax becomes or became due. No person shall be personally and individually liable under this subsection who had no authority in the management of the business or financial affairs of the limited liability company or registered limited liability partnership at the time the tax imposed by KRS 138.210 to 138.446 becomes or became due. "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under the provisions of this chapter, and all applicable penalties imposed under the provisions of KRS 131.180, 131.410 to 131.445, and 131.990.

Section 43. KRS 139.185 is amended to read as follows:

(1) Notwithstanding any other provisions of this chapter to the contrary, the president, vice president, secretary, treasurer or any other person holding any equivalent corporate office of any corporation subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter, and neither the corporate dissolution nor withdrawal of the corporation from the state nor the cessation of holding any corporate office shall discharge the foregoing liability of any person. The personal and individual liability shall apply to each and every person holding the corporate office at the time the taxes become or became due. No person ***shall***~~[will]~~ be personally and individually liable pursuant to this ***subsection***~~[section]~~ who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this ***subsection***~~[section]~~ shall include interest accrued at the rate provided by KRS 139.650 and all applicable

penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445 and 131.990.

(2) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to the provisions of this chapter shall be personally and individually liable, both jointly and severally, for the taxes imposed under this chapter. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner of a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection that had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

Section 44. KRS 141.340 is amended to read as follows:

(1) An employer shall be liable for the payment of the tax required to be deducted and withheld under KRS 141.310 and 141.315, and shall not be liable to any person for the amount of any such payment.

(2) The president, vice president, secretary, treasurer or any other person holding an equivalent corporate office of any corporation subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such corporation, and neither the corporate dissolution or withdrawal of the corporation from the state nor the cessation of holding any such corporate office shall discharge the foregoing liability of any such person; provided that the personal and individual liability shall apply to each or every person holding such corporate office at the time such tax becomes or became obligated. *No person shall be personally and individually liable under this subsection who had no authority in the management of the business or financial affairs of the corporation at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.*

(3) Notwithstanding any other provisions of this chapter, KRS 275.150, or KRS 362.220(2) to the contrary, the managers of a limited liability company and the partners of a registered limited liability partnership or any other person holding any equivalent office of a limited liability company or a registered limited liability partnership subject to KRS 141.310 or 141.315 shall be personally and individually liable, both jointly and severally, for any tax required to be withheld under this chapter from wages paid to one (1) or more employees of any such limited liability company or registered limited liability partnership. Dissolution, withdrawal of the limited liability company or registered limited liability partnership from the state, or the cessation of holding any office shall not discharge the liability of any person. The personal and individual liability shall apply to each and every manager of a limited liability company and partner in a registered limited liability partnership at the time the taxes become or became due. No person shall be personally and individually liable under this subsection who had no authority in the management of the business or financial affairs of the limited liability company or a registered limited liability partnership at the time that the taxes imposed by this chapter become or became due. "Taxes" as used in this subsection shall include interest accrued at the rate provided by KRS 131.183, all applicable penalties imposed under this chapter, and all applicable penalties and fees imposed under KRS 131.180, 131.410 to 131.445, and 131.990.

SECTION 45. A NEW SECTION OF KRS CHAPTER 138 IS CREATED TO READ AS FOLLOWS:

(1) For the purpose of this section:

- *(a) "Business" means any activity engaged in by a person or caused to be engaged by a person with the object of gain, benefit, or advantage, either direct or indirect;*
- *(b) "Gross receipts" means:*
  - *1. Sales of tangible personal property in this state if:*
    - *a. The property is delivered or shipped to a purchaser, other than the United States Government, or to the designee of the purchaser within this state regardless of the f.o.b. point or other conditions of the sale; or*
    - *b. The property is shipped from an office, store, warehouse, factory, or other place of storage in this state and the purchaser is the United States Government; and*
  - *2. Sales other than sales of tangible personal property in this state if the income producing activity is performed in this state; or the income producing activity is performed both in and outside this state and a greater proportion of the income producing activity is performed in this state than in any other state,*

based on cost of performance; and

(c) "Interstate communication service" means those communications services to which the sales tax imposed by KRS Chapter 139, in effect on November 30, 2000, did not apply.

(2) Any business whose communication excise tax on interstate communications service exceeds five percent (5%) of the business's Kentucky gross receipts during the preceding calendar year is entitled to a refundable credit. The refundable credit shall be equal to the difference between the communications excise tax paid on interstate communications service by the business and five percent (5%) of the business's Kentucky gross receipts.

(3) Any business that qualifies for the refundable credit, authorized by subsection (2) of this section shall make an application for the refund beginning on or before June 1, 2002 on or before every June 1 thereafter. The application shall be made to the cabinet on forms as the cabinet may prescribe and shall contain any information deemed necessary for the cabinet to determine the business's eligibility to receive a refund.

(4) Notwithstanding the provisions of KRS 134.580 to the contrary, the cabinet, upon receipt of a properly documented refund application, shall cause a timely refund to be made directly to the business. Interest shall not be allowed or paid on any refund made under this section.

(5) Any refund application submitted under this section is subject to examination by the cabinet. The examination shall occur within four (4) years from the date the refund application is received by the cabinet. Any overpayment resulting from the examination shall be repaid to the State Treasury. In addition, the amount required to be repaid is subject to the interest provisions of KRS 131.183 and to the penalty provisions of KRS 131.180.

Section 46. The following KRS section is repealed:

160.614 Tax on gross receipts from furnishing of cable television services.

Section 47. Sections 1 to 5 and Sections 42 to 44 of this Act apply for taxable years beginning after June 30, 2000.

Section 48. Section 6 of this Act shall be effective July 1, 2000.

Section 49. Sections 7 to 33 and Sections 37, 40, and 41 of this Act shall be effective December 1, 2000.

Section 50. Sections 34 and 35 of this Act shall be effective January 1, 2001.

Section 51. Section 36 of this Act shall be effective December 31, 2000.

Section 52. Section 38 of this Act shall be effective August 1, 2000.

Section 53. Section 39 of this Act shall apply for taxable years beginning after December 31, 2000.

Section 54. Section 45 of this Act shall be effective January 1, 2002.

Section 55. Whereas the Commonwealth's next fiscal year begins on July 1 and the General Assembly finds that it is critical that the provisions of Section 6 of this Act take effect at the beginning of the fiscal year, an emergency is declared to exist and Section 6 of this Act takes effect July 1, 2000.

The Committee Amendment No. 1 Title to **HB 996** is as follows:

By amending the title to read "AN ACT relating to revenue and taxation and declaring an emergency.".

The Committee on Appropriations and Revenue reported **HB 405,** with Committee Substitutes attached thereto, with the expression of opinion that the same should pass. Order referred to the Committee on Rules.

The Committee Substitute No. 2 to **HB 405** is as follows:

HB 405, AN ACT relating to emergency medical services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 211.950 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As used in KRS ***311.652 to 311.658***[~~211.952 to 211.956~~], unless the context otherwise requires:

(1)[~~ "Advisory committee" means the Emergency Medical Services for Children Advisory Committee of the Kentucky Emergency Medical Services Council established under KRS 211.9533;~~

~~(2)~~] "Ambulance" means a vehicle which has been inspected and approved by the ***board***[~~cabinet~~], including a helicopter or fixed wing aircraft, except vehicles or aircraft operated by the United States government, that are specially designed, constructed, or have been modified or equipped with the intent of using the same, for the purpose of transporting any individual who is sick, injured, or otherwise incapacitated who may require immediate stabilization and continued medical response and intervention during transit or upon arrival at the patient's destination to safeguard the patient's life or physical well-being;

(2)[~~(3)~~]"Ambulance provider" means any individual or private or public organization, except the United States government, who is licensed by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] to provide medical transportation services as either basic life support or advanced life support and who may have a vehicle or vehicles, including ground vehicles, helicopters, or fixed-wing aircraft. An ambulance provider may be licensed as an air ambulance provider; as a Class I ground ambulance provider; as a Class II ground ambulance provider; or as a Class III ground ambulance provider;

(3) "Board" means the Kentucky Board of Emergency Medical Services;

(4) "Department" means the Department for Public Health;

(5) "Emergency medical facility" means a hospital, trauma center, or any other institution licensed by the Cabinet for Health Services that furnishes emergency medical services;

(6) "Emergency medical services" means the services utilized in responding to the perceived individual need for immediate medical care to protect against loss of life, or aggravation of physiological or psychological illness or injury;

(7) "Emergency Medical Services for Children Program" or "EMSC Program" means the program established under ***Section 5 of this Act***[~~KRS 211.9531~~];

(8) "Emergency medical services personnel" means persons, including physicians, certified or licensed, and trained to provide emergency medical services, whether on a paid or volunteer basis, as part of basic life support, advanced life support, ***or*** prehospital ***services***[~~, or hospital emergency care services or in an emergency department or critical care or specialized unit in a licensed hospital or other licensed emergency or critical care medical facility~~];

(9) "Emergency medical services system" means a coordinated system of health-care delivery that responds to the needs of acutely sick and injured adults and children, and includes community education and prevention programs, centralized access and emergency medical dispatch, communications networks, trained emergency medical services personnel, medical first response, ground and air ambulance services,[~~ emergency medical facilities and specialty care hospitals,~~] trauma care systems, mass casualty management, medical direction, and quality control and system evaluation procedures;

(10) "Emergency medical technician" or "(EMT)" means a person certified under KRS 311.652 to 311.658 as an EMT-first responder, EMT-basic, EMT-basic instructor, EMT-instructor trainer, or EMT-first responder instructor;

(11) "Medical director" means a physician licensed in Kentucky who is employed by, under contract to, or has volunteered to serve as the medical director of a licensed ambulance service;

(12) "Paramedic" means a person who is primarily involved in the delivery of emergency medical services and is licensed under KRS 311.652 to 311.658;

(13) "Prehospital care" means the provision of emergency medical services or transportation by trained and[~~ certified or~~] licensed emergency medical services personnel at the scene of an emergency or while transporting sick or injured persons to a hospital or other emergency medical facility;

(14)[~~(11)~~] "Regional emergency medical services system" means a system approved by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] which provides for the arrangement of personnel, facilities, equipment, or any of the above, for the effective and coordinated delivery of health-care services in an appropriate geographical area;

(15)[~~(12)~~] "Trauma" means a single or multisystem life-threatening or limb-threatening injury requiring immediate medical or surgical intervention or treatment to prevent death or permanent disability; and

(16)[~~(13)~~] "Trauma care system" means a subsystem within the emergency medical services system consisting of an organized arrangement of personnel, equipment, and facilities designed to manage the treatment of the trauma patient.

SECTION 2. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) The Kentucky Board of Emergency Medical Services is created and shall consist of sixteen (16) members who are residents of Kentucky appointed by the Governor in conjunction with recognized state emergency medical services related organizations. Membership shall be made up of the following:

- ***(a) One (1) paramedic who works for a government agency but is not serving in an educational, management, or supervisory capacity;***
- ***(b) One (1) emergency medical technician-basic who works for a government agency but is not serving in an educational, management, or supervisory capacity;***
- ***(c) One (1) emergency medical technical-first responder who is not serving in an educational, management, or supervisory capacity;***
- ***(d) One (1) physician licensed in Kentucky having a primary practice in the delivery of emergency medical care selected from a list of three (3) physicians submitted by the Kentucky Medical Association;***
- ***(e) One (1) physician licensed in Kentucky serving as medical director of an advanced life support ambulance service, selected from a list of three (3) physicians submitted by the Kentucky Medical Association;***
- ***(f) One (1) physician licensed in Kentucky who is routinely involved in the emergency care of ill and injured children selected from a list of three (3) physicians submitted by the Kentucky Medical Association;***

(g) One (1) trauma surgeon licensed in Kentucky selected from a list of three (3) physicians submitted by the Kentucky Medical Association;

(h) One (1) citizen having no involvement in the delivery of medical or emergency services;

(i) One (1) emergency medical services educator from a Kentucky college or university that provides an emergency medical services educational program;

(j) One (1) mayor of a city that operates, either directly or through contract services, a licensed Class I ground ambulance service;

(k) One (1) county judge/executive from a county that operates, whether directly or through contract services, a licensed Class I ground ambulance service;

(l) One (1) volunteer-staffed, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;

(m) One (1) fire-service-based, licensed Class I ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic;

(n) One (1) hospital administrator selected from a list of five (5) nominees submitted by the Kentucky Hospital Association;

(o) One (1) basic life support, licensed Class I government-operated ground ambulance service administrator who is a certified emergency medical technician or a licensed paramedic; and

(p) One (1) advanced life support, government-operated ambulance service administrator who is a certified emergency medical technician or a licensed paramedic.

(2) No board member shall serve more than two (2) consecutive terms.

(3) The board shall elect a chair by majority vote of the members present at its first annual meeting.

(4) The board shall adopt a quorum and rules of procedure by administrative regulation.

(5) A member of the board who misses three (3) meetings in one (1) year shall be deemed to have resigned from the board and his or her position shall be deemed vacant. The person removed under this subsection shall not be reappointed to the board for ten (10) years. The year specified in this subsection shall begin with the first meeting missed and end three hundred sixty-five (365) days later or with the third meeting missed, whichever occurs earlier. The Governor shall appoint a person of the same class to fill the vacancy within ninety (90) days.

(6) Members of the board and of all committees shall be entitled to reimbursement for actual and necessary expenses when carrying out official duties of the board in accordance with state administrative regulations relating to travel reimbursement. The board shall meet at least six (6) times each year.

(7) The board shall:

(a) Exercise all of the administrative functions of the state in the regulation of the emergency medical services system and the practice of first responders, emergency medical technicians, paramedics, ambulance services, and training institutions;

(b) Issue, deny, suspend, limit, restrict, and revoke any licenses or certifications, and reprimand or place an individual with a license or certificate on probation;

(c) Appoint an executive director and fix the compensation. The executive director shall serve at the pleasure of the board, administer the day-to-day operations of the agency, and supervise all directives of the board. The director shall possess a baccalaureate degree and shall have no less than five (5) years of experience in public administration or in the administration of an emergency medical services program;

(d) Appoint or contract with a physician who is board certified in emergency medicine and fix the compensation. The physician shall serve as the medical advisor to the Kentucky Board of Emergency Medical Services and the staff of the board;

(e) Appoint a general counsel and fix the compensation;

(f) Employ personnel sufficient to carry out the statutory responsibilities of the board.

1. Personnel assigned to regulate or support the emergency medical technician first responder program shall be certified emergency medical technician first responders or emergency medical technicians.

2. Personnel assigned to regulate or support the emergency medical technician program shall be certified emergency medical technicians or paramedics.

3. Personnel assigned to regulate or support the paramedic program shall be licensed paramedics.

4. Personnel in purely clerical roles need not be certified in the manner specified in this section;

(g) Establish committees and subcommittees, who need not be members of the board, as necessary;

(h) Collect any fees established by the promulgation of administrative regulations;

(i) Investigate and hold hearings for any disciplinary proceedings in accordance with KRS Chapter 13B;

(j) Establish and impose fines against individuals or agencies governed by the board;

(k) Enter into contracts, apply for grants and federal funds, and disburse funds to local units of government as approved by the General Assembly;

(l) Maintain a program and provide technical assistance for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state;

(m) Collect and analyze data for evaluation of emergency medical services in the Commonwealth;

(n) Administer the Emergency Medical Services for Children Program; and

(o) Establish minimum curriculum and standards for emergency medical services training.

(8) The board may utilize materials, services, or facilities as may be made available to it by other state agencies or may contract for materials, services, or facilities.

Section 3. KRS 211.952 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky Board of Emergency Medical Services shall promulgate administrative regulations in accordance with KRS Chapter 13A to carry out the functions of KRS 311.652 to 311.658, including, but not limited to:

(1) [~~The Cabinet for Health Services shall maintain a program for the planning, development, improvement, and expansion of emergency medical services systems and trauma care systems throughout the state.~~

~~(2) The Cabinet for Health Services shall establish and designate a single lead agency under the supervision and direction of the commissioner of public health which will carry out all administrative functions related to the planning, development, improvement, and expansion of emergency medical services systems throughout the state. This will include:~~

~~(a) The training and certification of prehospital personnel;~~

~~(b) The promulgation of standards and regulations for emergency medical services personnel;~~

~~(c) The promulgation of administrative regulations for the~~]Licensing, *inspecting*[~~inspection~~], and *regulating*[~~regulation~~] of ambulance *services* and medical first-response providers. The administrative regulations shall address specific requirements for:

(a)[~~1.~~] Air ambulance providers*,* which provide basic or advanced life support services;

(b)[~~2.~~] Class I ground ambulance providers, which provide basic life support or advanced life support services to all patients for[~~ both~~] emergencies and scheduled ambulance transportation which is medically necessary;

(c)[~~3.~~] Class II ground ambulance providers, which provide only basic life support services but do not provide initial response to the general population with medical emergencies and which are limited to providing scheduled ambulance transportation which is medically necessary;

(d)[~~4.~~] Class III ground ambulance providers, which provide mobile intensive care services at or above the level of advanced life support to patients with critical illnesses or injuries who must be transported between hospitals in vehicles with specialized equipment as an extension of hospital-level care; and

(e)[~~5.~~] Medical first-response providers*, which*[~~ who~~] provide prehospital basic life support services, or advanced life support services, but do not transport patients;

(2)[~~(d)~~]*Establishing,* planning*,* and *developing*[~~development of~~] emergency medical services and trauma care systems;

(3)[~~(e)~~]*Promulgating*[~~Promulgation of~~] voluntary standards for trauma centers and other specialized emergency medical facilities;

[~~(f) Provision of funding and technical assistance as shall become available; and~~]

(4)[~~(g)~~]Establishing minimum data reporting requirements, including requirements specifically related to emergency medical services and trauma care of children, for ambulance providers and trauma centers[~~ and other specialized emergency medical facilities~~] and collection and analysis of data related to the provision of emergency medical services and trauma care;[~~ and~~]

(5)[~~(h)~~]*Maintaining*[~~Establishing~~] the Emergency Medical Services for Children Program with federal funds so designated plus any additional funds that may be appropriated by the General Assembly, or any other funds that may become available to the *Kentucky Board of Emergency Medical Services*[~~cabinet~~], including gifts, grants, or other sources*;*[~~.~~

~~(3) Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.~~]

(6)[~~(4)~~]*Developing*[~~The cabinet shall promulgate administrative regulations and perform the necessary functions to carry out the purpose of this section including:~~

~~(a) Delineation, by administrative order of the secretary, of the geographic boundaries of regional emergency medical services systems.~~

~~(b) Promulgation of administrative regulations providing for:~~

~~1. Composition of regional emergency medical services advisory boards to serve in an advisory capacity to the Kentucky Emergency Medical Services Council;~~

~~2. Terms of office of regional emergency medical services advisory board members;~~

~~3. Appointment of regional emergency medical services advisory board members; and~~

~~4. Such other matters relating to regional emergency medical services systems as may be necessary.~~

~~(c) Provision of technical assistance to regional emergency medical services advisory boards, units of local government, and others in planning for the development, coordination, and monitoring of emergency medical services.~~

~~(d) Development of~~] a statewide plan for the implementation of emergency medical services systems and trauma care systems within the Commonwealth of Kentucky ***that***[~~which~~] specifically addresses the unique needs of rural areas***;***[~~.~~]

(7)[~~(e)~~]***Issuing***[~~Issuance of~~] a format for the development of regional emergency medical services plans consistent with goals and standards included in the statewide emergency medical services plan.

(8)[~~(f)~~] ***Applying***[~~Application~~] for, ***receiving***[~~receipt of~~], and ***disposing***[~~disposition~~] of federal, state, or private funds by grant, appropriation, donation, or otherwise for emergency medical services programs, personnel, and equipment***;***[~~.~~

~~(g) Awarding of funds to regional emergency medical services systems to implement specific objectives delineated in regional emergency medical services plans, including assistance to local governments for their provision of ambulance service.~~]

(9)[~~(h)~~]***Developing***[~~Development~~], monitoring, and ***encouraging***[~~encouragement~~] of[~~ such~~] other projects and programs ***that***[~~which~~] may be of benefit to emergency medical services in the Commonwealth***; and***

(10) Establishing standards related to the training of emergency medical services personnel.

Nothing in this section shall be construed to change or alter the issuance of certificates of need for emergency medical services providers.

[~~(i) Conducting verification inspections to ensure compliance with voluntary standards established by the cabinet for trauma centers, emergency departments, and specialized hospital-based services for which standards have been established by the cabinet for emergency medical services and trauma care systems.~~

~~(5) The cabinet shall establish a Kentucky Emergency Medical Services Council which shall advise the cabinet on issues relating to the development, implementation, regulation, maintenance, and reimbursement of emergency medical services systems and providers. This council shall be broadly representative of individuals, providers, and public officials having expertise in emergency medical services. The council shall consult with the Kentucky Board of Medical Licensure to establish medically appropriate standards and protocols which will be utilized by emergency medical services personnel and to assist the Kentucky Board of Medical Licensure in meeting the requirements of KRS 311.654. The council shall consult with the Kentucky Board of Nursing to establish appropriate standards and protocols to meet the requirements of KRS 314.131 for nurses who practice in emergency medical service settings.~~

~~(6) Data and records generated and kept by the single emergency medical services administrative agency, the Kentucky Emergency Medical Services Council, the Emergency Medical Services for Children Advisory Committee, the Kentucky Emergency Medical Services for Children Program or their contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be held confidential, shall not be subject to disclosure under KRS 61.805 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery; provided, however, that nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment which otherwise would be admissible or discoverable.~~

~~(7) Nothing in this section shall limit, preclude, or otherwise restrict the practices of licensed personnel in carrying out their duties under the terms of their licenses.~~]

Section 4. KRS 211.953 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The Kentucky General Assembly declares that the purpose of ***Section 5 of this Act***[~~KRS 211.9531 and 211.9533~~] is to establish a comprehensive emergency medical services system for children, as an integral part of Kentucky's overall emergency medical services and trauma care system, in order to provide children with access to comprehensive emergency[~~ and critical care medical services, including preventive, prehospital, hospital, rehabilitation, and other posthospital~~] care. The General Assembly recognizes the contributions of the federally funded Emergency Medical Services for Children program in Kentucky and desires to continue and expand the activities initiated by this program. The General Assembly finds that coordination of emergency services, additional training of emergency medical services personnel, communication among service providers, and enhanced data collection efforts will provide children with access to skilled emergency care, decrease unnecessary deaths from injury, decrease the overall costs of health care, and provide information as to the quality of emergency medical care for children.

Section 5. KRS 211.9531 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

(1)[~~There is established within the department's lead agency for emergency medical services an Emergency Medical Services for Children Program.~~

~~(2)~~] The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] may hire a coordinator for the ***Emergency Medical Services for Children***[~~EMSC~~] Program[~~, who shall be assigned to the department's lead agency for emergency medical services. The authorized personnel cap for the department may be increased to include the coordinator~~] and other positions for which funding is provided by the General Assembly or through any other sources, including gifts, grants, or federal funds.

(2)[~~(3)~~]The coordinator shall***, subject to the direction of the Kentucky Board of Emergency Medical Services***:

(a) Implement and oversee the ***Emergency Medical Services for Children***[~~EMSC~~] Program described in this section[~~, in consultation with the advisory committee established in Section 5 of this Act~~]; and

(b) Serve as liaison for collaboration and coordination between the ***Emergency Medical Services for Children***[~~EMSC~~] Program***, the Kentucky Board of Emergency Medical Services,*** and other public and private organizations,[~~ including the department's lead emergency medical services agency,~~] the state traffic safety office, the maternal and child health program, the Medicaid department, the state and local child fatality review and response teams, state and local professional organizations, private sector voluntary organizations, and consumer and community representatives.

(3)[~~(4)~~]The ***Emergency Medical Services for Children***[~~EMSC~~] Program may include, but not be limited to, the establishment of the following:

(a)[~~Guidelines for the approval of emergency medical services facilities for pediatric care, and designation of specialized regional pediatric critical care centers and pediatric trauma centers;~~

~~(b) Guidelines for referring children to the appropriate emergency medical facility;~~

~~(c)~~] Guidelines for necessary ***out-of-hospital***[~~prehospital and other pediatric emergency and critical care~~] medical service equipment;

(b)[~~(d) Guidelines for developing a coordinated system that will allow children to receive appropriate initial stabilization and treatment with timely provision of, or referral to, the appropriate level of care, including critical care, trauma care, or pediatric subspecialty care;~~

~~(e)~~] Guidelines and protocols for ***out-of-hospital***[~~prehospital and hospital facilities encompassing all levels of~~] pediatric emergency medical services[~~, pediatric critical care, and pediatric trauma care;~~

~~(f) Guidelines for rehabilitation services for critically ill or injured children;~~

~~(g) A system for transferring critically ill or injured children between emergency medical facilities, services, and systems~~];

(c)[~~(h)~~]***Assistance in the development and provision of***[~~Initial and continuing~~] professional education programs for emergency medical services personnel[~~, which shall include training~~] in the emergency care of infants and children;

(d)[~~(i) A public education program concerning the EMSC Program, including information on emergency access telephone numbers;~~

~~(j) The collection and analysis of statewide pediatric emergency and critical care medical services data from emergency medical facilities for the purpose of quality improvement by these facilities, subject to the confidentiality requirements of KRS 211.952(6);~~

~~(k) The establishment of cooperative interstate relationships to facilitate the provision of appropriate care for pediatric patients who must cross state borders to receive emergency medical services;~~

~~(l)~~] Coordination and cooperation between the ***Emergency Medical Services for Children***[~~EMSC~~] Program and other public and private organizations interested or involved in emergency[~~ and critical~~] care for children, including those persons and organizations identified in subsection ***(2)***[~~(3)~~](b) of this section; and

(e)[~~(m)~~] The scope of activities carried out by the ***Emergency Medical Services for Children***[~~EMSC~~] Program shall be commensurate with the availability of funds.

Section 6. KRS 211.954 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

A matching fund program is hereby created for the purpose of assisting local ***units of government***[~~ambulance providers~~] in the purchases of ambulances and equipment***, provision of an adequate number of trained emergency medical services personnel, and provision of education for personnel***. The fund shall consist of such moneys as may be appropriated by the General Assembly or may be obtained from other sources for the fund as provided in this section[~~ and KRS 211.956~~]:

(1) Application and justification of need for moneys from the fund shall be based upon the state emergency medical services

plan's priorities;

(2) Application for moneys from the fund may be made to the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] by any city, county, ***ambulance taxing district,*** or regional emergency medical services system based upon guidelines established by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~];

(3) Moneys from the fund will provide for up to a maximum of fifty percent (50%) of the actual cost of any ambulance or other item of equipment desired to be procured. No county, including all grants to entities within the county, shall receive more than twenty-five thousand five hundred dollars ($25,500) from the fund per year;

(4) No funds awarded pursuant to this section shall be used for any other purpose than the purpose for which they were awarded. Funds remaining unexpended one (1) year from the date of the award shall lapse and shall be returned to the fund by the recipient[~~ city, county, or regional emergency medical services system~~];

(5) Funding periods shall coincide with the fiscal year as established by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~]; and

(6) Each ambulance or item of equipment purchased shall meet or exceed, if a standard has been set for the particular item of equipment, the standards set by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~].

Section 7. KRS 211.962 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

No person shall:

(1) Hold himself out as certified pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] nor use the ***title of emergency medical technician or***[~~initials~~] "EMT" when he does not hold a current valid certification issued pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~]; or

(2) If certified, violate any provision of KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] or any ***administrative***[~~rule or~~] regulation, adopted by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] relating to ***Section 8 of this Act***[~~KRS 211.964~~].

Section 8. KRS 211.964 is repealed, reenacted as a new section of KRS 311.652 to 311,658, and amended to read as follows:

(1) The ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] shall promulgate administrative regulations relating to emergency medical technicians. The ***administrative*** regulations may include the classification and certification of emergency medical technicians, instructors, instructor-trainers, and students and trainees; examinations; standards of training and experience; curricula standards; issuance, renewal, suspension, denial, revocation, probation, and restriction of certificates; hearing of appeals; and other reasonable standards[~~ or regulations~~] as may be necessary for the protection of public health and safety in the delivery of emergency medical services.[~~ Any administrative hearing conducted under authority of this section shall be conducted in accordance with KRS Chapter 13B.~~] No additional testing or examinations shall be required for recertification, except for proficiency testing of new skills or knowledge, or areas in which there is documented evidence of deterioration of skills.

(2) Recertification programs shall be organized to include continuing education and in-service training approved by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~]. The continuing education program shall be subject to the requirements of KRS 214.610(1).

(3) ***Beginning the effective date of this Act, a new emergency medical technician shall, for initial certification, be certified using the requirements and testing established by the National Registry of Emergency Medical Technicians.***

(4) Beginning the effective date of this Act, a certified emergency medical technician who seeks recertification shall obtain recertification under the requirements established and maintained by the Kentucky Board of Emergency Medical Services. These requirements shall contain a minimum of sixteen (16) hours of required topics and eight (8) hours of elective topics over a two (2) year recertification period. The Kentucky Board of Emergency Medical Services shall also recertify any emergency medical technician who chooses to obtain recertification under the requirements established by the National Registry of Emergency Medical Technicians in lieu of the standards established by the Kentucky Board of Emergency Medical Services.

(5)[~~ In lieu of the continuing education and in-service training requirement specified by the cabinet for recertification, an emergency medical technician, certified as of July 15, 1996, or within one (1) year of July 15, 1996, may elect to recertify utilizing the continuing education and in-service training required by the National Registry of Emergency Medical Technicians or its successor organization. Upon successful completion of the National Registry recertification requirements, the emergency medical technician shall be recertified for the period of time specified by law.~~

~~(4) Emergency medical technicians certifying later than one (1) year after July 15, 1996, shall, in lieu of the certification requirements specified by the cabinet under subsection (1) of this section, successfully complete the National Registry of Emergency Medical Technicians final examination for certification and shall maintain National Registry of Emergency Medical Technicians credentials in order to be recertified.~~

~~(5) A person who has chosen to recertify as an emergency medical technician utilizing the National Registry of Emergency~~

~~Medical Technicians or its successor organization's requirements shall not be permitted to recertify utilizing the cabinet's requirements, unless the National Registry of Emergency Medical Technicians and its successor organization ceases business or there is no successor organization.~~

~~(6)~~] Other than the requirements of KRS 214.610(1), the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall not require any additional course work, in-service training, testing, or examinations of a person who chooses the National Registry of Emergency Medical Technicians or its successor organization for certification or recertification as an emergency medical technician.

(6)[~~(7)~~]Other than the requirements of KRS 214.610(1), any person ***licensed***[~~certified~~] by the ***Kentucky Board of Emergency Medical Services***[~~State Board of Medical Licensure~~] as a paramedic shall be certified as an emergency medical technician by the ***board***[~~cabinet~~]. The certification shall be issued without fee, without additional training, in-service training, testing, or examination. The emergency medical technician certification shall be issued and expire at the same time that ***the*** paramedic ***license***[~~certification~~] is issued or expires, and if a paramedic voluntarily gives up his ***or her*** ***license***[~~certification~~] prior to the expiration of his ***or her*** paramedic ***license***[~~certification~~], his ***or her*** emergency medical technician certification shall be unaffected thereby. If a paramedic chooses not to ***be relicensed***[~~recertify~~] as a paramedic but chooses to retain his emergency medical technician certification, the paramedic shall, prior to the expiration of his paramedic ***license***[~~certification~~], ***complete the requirements for recertification***[~~recertify~~] as an emergency medical technician utilizing one (1) of the methods provided for in this section.

(7)[~~(8)~~]A paramedic whose ***license***[~~certification~~] as a paramedic is suspended, revoked, or denied by the ***Kentucky Board of Emergency Medical Services***[~~State Board of Medical Licensure~~] shall have the same action taken automatically[~~ by the cabinet~~] with regard to his emergency medical technician certification.

Section 9. KRS 211.966 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

The ***Kentucky Board of Emergency Medical Services***[~~secretary of the Cabinet for Health Services~~] may, by ***administrative*** regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ***licenses or*** certificates, and for the renewal of ***licenses or*** certificates issued pursuant to KRS ***311.652 to 311.658***[~~211.962 to 211.968~~]. All such fees, charges, or other moneys collected by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] under KRS ***311.652 to 311.658***[~~211.962 to 211.968~~] shall be paid into the State Treasury and credited to a trust and agency fund to be used by the ***Kentucky Board of Emergency Medical Services***[~~Cabinet for Health Services~~] for carrying out the provisions of KRS ***311.652 to 311.658***[~~211.962 to 211.968~~].

Section 10. KRS 211.967 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

As a condition of being issued a certificate as an emergency medical technician, the applicant shall have completed a ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

Section 11. KRS 211.968 is repealed, reenacted as a new section of KRS 311.652 to 311.658, and amended to read as follows:

Nothing in KRS ***311.652 to 311.658***[~~ 211.962 to 211.966~~] shall be construed to permit certification or utilization of any certified emergency medical technician ***or emergency medical technician first responder*** for the purpose of such individual working full time with primary responsibility and duties limited to hospitals, physicians' offices, clinics, or other definitive care facilities, except[~~ for certification or utilization of a person~~] as an emergency medical technician trainee or as a full-time instructor of emergency medical technicians.

Section 12. KRS 211.990 is amended to read as follows:

(1) Any owner or occupant who fails to comply with an order made under the provisions of KRS 211.210 shall be guilty of a violation, and each day's continuance of the nuisance, source of filth, or cause of sickness, after the owner or occupant has been notified to remove it, shall be a separate offense.

(2) Except as otherwise provided by law, anyone who fails to comply with the provisions of the rules and regulations adopted pursuant to this chapter or who fails to comply with an order of the cabinet issued pursuant thereto shall be guilty of a violation. Each day of such violation or noncompliance shall constitute a separate offense.

(3) Any person who violates any provision of KRS 211.182 shall, upon first offense, be guilty of a Class A misdemeanor. Each subsequent violation of any provision of KRS 211.182 shall constitute a Class D felony.

(4) Any person who violates any provision of KRS 211.842 to 211.852 or any regulation adopted hereunder or any order issued by the Cabinet for Health Services to comply with any provision of KRS 211.842 to 211.852 or the regulations adopted thereunder shall be guilty of a Class A misdemeanor. Each day of violation or noncompliance shall constitute a separate offense.

(5)[~~ Any person who violates KRS 211.962 or any rule or regulation of the Cabinet for Health Services adopted pursuant to~~

~~KRS 211.962 to 211.968 shall be guilty of a Class A misdemeanor.~~

~~(6)~~] A private review agent which performs utilization review without proper registration pursuant to KRS 211.461 to 211.466 shall be guilty of a Class A misdemeanor.

(6)[~~(7)~~]Any properly registered private review agent which willfully violates any provision of KRS 211.461 to 211.466 or of the regulations shall be guilty of a Class D felony.

(7)[~~(8)~~]A person who performs or offers to perform lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities who is not certified as required by KRS 211.9063 or 211.9069 shall be guilty of a Class A misdemeanor.

(8)[~~(9)~~]Any person who performs lead-hazard detection or lead-hazard abatement services in target housing or child-occupied facilities, who willfully violates the standards for performing lead-hazard detection or lead-hazard abatement procedures included in the administrative regulations promulgated pursuant to KRS 211.9075 shall be guilty of a Class D felony.

(9)[~~(10)~~] The penalties provided in subsections ***(5),*** (6), (7), ***and*** (8)[~~, and (9)~~] of this section are cumulative and are in addition to any other penalties, claims, damages, or remedies available at law or in equity.

(10)[~~(11)~~] Any person who violates any provisions of KRS 211.760 shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). Each day of violation or noncompliance shall constitute a separate offense.

Section 13. KRS 216B.410 is amended to read as follows:

(1) Each licensed ambulance provider and medical first response provider as defined in ***Section 3 of this Act***[~~KRS 211.952(2)~~] shall collect and provide to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] run data and information required by the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] by administrative regulation.

(2) The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall develop a run report form for the use of each class of ambulance provider and medical first response provider containing the data required in subsection (1) of this section. An ambulance provider or medical first response provider may utilize any run form it chooses in lieu of or in addition to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~]-developed run report form. However, the data captured on the run report form shall include at least that required by the administrative regulations promulgated pursuant to subsection (1) of this section.

(3) An ambulance provider or medical first response provider ***shall***[~~may~~] report the required run report data and information by ***completing an annual report as established by the Kentucky Board of Emergency Medical Services***[~~sending copies of the completed run report forms to the cabinet~~] or by transmitting the required data and information to the cabinet in an electronic format. If the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] requires the use of a specific electronic format, it shall provide a copy of the file layout requirements, in either written or electronic format, to the licensed ambulance provider or medical first response provider at no charge.

(4)[~~ Each ambulance provider or medical first response provider shall submit its run reports or data summary reports in electronic format on the time schedule specified by the cabinet by administrative regulation.~~

~~(5)~~] The ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall publish a comprehensive annual report reflecting the data collected, injury and illness data, treatment utilized, and other information deemed important by the ***board***[~~cabinet~~]. The annual report shall not include patient identifying information or any other information identifying a natural person. A copy of the comprehensive annual report shall be forwarded ***to the Governor and the General Assembly***[~~by the cabinet to the Kentucky Board of Medical Licensure~~].

(5)[~~(6)~~]Ambulance provider and medical first response provider run report forms and the information transmitted electronically to the ***Kentucky Board of Emergency Medical Services***[~~cabinet~~] shall be confidential. No person shall make an unauthorized release of information on an ambulance run report form or medical first response run report form. Only the patient or the patient's parent or legal guardian if the patient is a minor, or the patient's legal guardian or person with proper power of attorney if the patient is under legal disability as being incompetent or mentally ill, or a court of competent jurisdiction may authorize the release of information on a patient's run report form or the inspection or copying of the run report form. Any authorization for the release of information or for inspection or copying of a run report form shall be in writing.

(6)[~~(7)~~]If a medical first response provider or ambulance provider does not use a paper form but collects patient data through electronic means, it shall have the means of providing a written run report that includes all required data elements to the medical care facility. A copy of the medical first response form or a summary of the run data and patient information shall be made available to the ambulance service that transports the patient. A copy of the ambulance run report form shall be made available to any medical care facility to which a patient is transported and shall be included in the patient's medical record by that facility. If a patient is not transported to a medical facility, the copy of the run report form that is to be given to the transporting ambulance provider or medical care facility shall be given to the patient or to the patient's parent or legal guardian. If the ambulance provider, medical facility, patient, or patient's legal guardian refuses delivery of their run report form or is unavailable to receive the form, that copy of the form shall be returned to the medical first response provider or ambulance provider and destroyed.

(7)[~~(8)~~]All ambulance services shall be required to keep adequate reports and records to be maintained at the ambulance base headquarters and to be available for periodic review as deemed necessary by the board. Required records and reports are as follows:

(a) Employee records, including a resume of each employee's training and experience and evidence of current certification; and

(b) Health records of all drivers and attendants including records of all illnesses or accidents occurring while on duty.

(8) Data and records generated and kept by the Kentucky Board of Emergency Medical Services or its contractors regarding the evaluation of emergency medical care and trauma care in the Commonwealth, including the identities of patients, emergency medical services personnel, ambulance providers, medical first-response providers, and emergency medical facilities, shall be confidential, shall not be subject to disclosure under KRS 61.805 to 61.850 or KRS 61.870 to 61.884, shall not be admissible in court for any purpose, and shall not be subject to discovery. However, nothing in this section shall limit the discoverability or admissibility of patient medical records regularly and ordinarily kept in the course of a patient's treatment that otherwise would be admissible or discoverable.

Section 14. KRS 281.014 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) (a) The term "city taxicab certificate" or "city limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to the corporate limits of a city of the first or second class or an urban-county area and the city's suburban area, or the corporate limits of any city and its suburban area located in a county which contains a city of the first or second class or an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of such transportation;

(b) The term "county taxicab certificate" or "county limousine certificate" means a certificate granting authority only for the operation of a given number of motor vehicles transporting passengers for hire, the principal operation of which is confined to a specific county which does not contain a city of the first or second class and is not an urban-county area, and not operating over any regular route, and the destination of which motor vehicles are designated by the passengers at the time of the transportation;

(c) A "taxicab" means a motor vehicle operated under one (1) or more taxicab certificates, and is a vehicle designed or constructed to transport not more than fifteen (15) passengers exclusive of the driver;

(d) A "limousine" means a luxury motor vehicle passenger car which has either a standard or an extended wheelbase. The vehicle shall have additional rear seating capacity, area, and comforts, but shall be designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(e) The term "taxicab license" means a license plate issued to a taxicab authorized to operate under a taxicab certificate;

(f) The term "limousine license" means a license plate issued to a limousine authorized to operate under a limousine certificate;

(2) (a) An "airport shuttle certificate" means a certificate granting authority only for the operation of motor vehicles exclusively transporting passengers or baggage for hire over regular routes between points within a city or its suburban area and an airport;

(b) An "airport shuttle vehicle" means a motor vehicle operated under one (1) or more airport shuttle certificates and which is designed or constructed to transport not more than fifteen (15) passengers plus the driver;

(c) The term "airport shuttle vehicle license" means a license plate issued for a motor vehicle authorizing its operation under one (1) or more airport shuttle certificates;

(3) The term "U-Drive-It" means any person who leases or rents a motor vehicle for a consideration to be used for the transportation of persons or property, but for which no driver is furnished, and the use of which motor vehicle is not for the transportation of persons or property for hire by the lessee or rentee;

(4) The term "driveaway" means the transporting and delivering of motor vehicles, except semitrailers, and trailers, whether destined to be used in either a private or for-hire capacity, under their own power or by means of a full mount method, saddle mount method, the tow bar method, or any combination of them over the highways of this state from any point of origin to any point of destination for-hire. The transportation of such vehicles by the full mount method on trailers or semitrailers shall not be included in the term ; and

(5) (a) "Disabled persons vehicle" means a motor vehicle especially equipped and used for the transportation of persons with disabilities and which is in compliance with the accessibility specifications of 49 C.F.R. Part 38, but it shall be designed and constructed to transport not more than fifteen (15) passengers plus the driver. It shall not mean an ambulance as defined in ***Section 1 of this Act***[~~KRS 211.950~~]. It shall not mean a motor vehicle equipped with a stretcher;

(b) "Disabled persons carrier" means an irregular route common carrier for hire, transporting the general public who require transportation in disabled persons vehicles; and

(c) "Disabled persons certificate" means a certificate that grants authority only for the operation of a given number of disabled persons vehicles for hire, the principle operation of which is confined to a specific county.

Section 15. KRS 281.605 is amended to read as follows:

The provisions of this chapter shall not apply, except as to safety regulations, to:

(1) Motor vehicles used as school buses and while engaged in the transportation of students, under the supervision and control and at the direction of school authorities;

(2) Except as provided in paragraph (e) of this subsection, motor vehicles, regardless of ownership, used exclusively:

(a) For the transportation of agricultural and dairy products, including fruit, livestock, meats, fertilizer, wood, lumber, cotton, products of grove or orchard, poultry, and eggs, while owned by the producer of the products, including landlord where the relation of landlord and tenant or landlord and cropper is involved, from the farm to a market, warehouse, dairy, or mill, or from one (1) market, warehouse, dairy, or mill to another market, warehouse, dairy, or mill;

(b) For the transportation of agricultural and dairy products, livestock, farm machinery, feed, fertilizer, and other materials and supplies essential to farm operation, from market or shipping terminal to farm;

(c) For both the purposes described in paragraphs (a) and (b) of this subsection;

(d) For the transportation of agricultural and dairy products from farm to regularly organized fairs and exhibits and return; or

(e) Motor vehicles used for the transportation of fly ash, in bags, sacks, or other containers, the aggregate weight of which does not exceed ten thousand (10,000) pounds; or bottom ash, waste ash, sludge, and pozatec which is being removed from the premises of a power generator facility for the purpose of disposal;

(3) Motor vehicles used exclusively as church buses and while operated in the transportation of persons to and from a church or place of worship or for other religious work under the supervision and control and at the direction of church authorities;

(4) Motor vehicles used exclusively for the transportation of property belonging to a nonprofit cooperative association or its members where the vehicle is owned or leased exclusively by the association;

(5) Motor vehicles owned in whole or in part by any person and used by such person to transport commodities of which such person is the bona fide owner, lessee, consignee, or bailee; provided, however, that such transportation is for the purpose of sale, lease, rent, or bailment, and is an incidental adjunct to an established private business owned and operated by such person within the scope and in furtherance of any primary commercial enterprise of such person other than the business of transportation of property for hire;

(6) Motor vehicles used in pick-up or delivery service within a city or within a city and its commercial area for a carrier by rail;

(7) Motor vehicles used exclusively for the transportation of coal from the point at which such coal is mined to a railhead or tipple where the railhead or tipple is located at a point not more than fifty (50) air miles from the point at which the coal is mined;

(8) Motor vehicles used as ambulances in transporting wounded, injured, or sick animals or as ambulances as defined in ***Section 1 of this Act***[~~KRS 211.950~~];

(9) Motor vehicles used by transit authorities as created and defined in KRS Chapter 96A except as required by KRS 96A.170. Vehicles operated under the authority and direct responsibility of such transit authorities, through contractual agreement, shall be included within this exemption, without regard to the legal ownership of the vehicles, but only for such times as they are operated under the authority and responsibility of the transit authority;

(10) Motor vehicles having a seating capacity of fifteen (15) or fewer passengers and while transporting persons between their places of residence, on the one hand, and, on the other, their places of employment, provided the driver himself is on his way to or from his place of employment, and further provided that any person who operates or controls the operation of vehicles hereunder of which said person is the owner or lessee, and any spouse of said person and any partnership or corporation with said person or his spouse having an interest therein doing such, shall be eligible to so operate an aggregate number of not more than one (1) vehicle on other than a nonprofit basis;

(11) Motor vehicles used to transport cash letters, data processing material, instruments, or documents, regardless of the ownership of any of said cash letters, data processing material, instruments, or documents;

(12) Motor vehicles operated by integrated intermodal small package carriers who provide intermodal-air-and-ground-transportation. For the purposes of this section, "integrated intermodal small package carrier" shall mean an air carrier holding a certificate of public convenience and necessity or qualifying as an indirect air carrier that undertakes, by itself or through a company affiliated through common ownership, to provide intermodal-air-and-ground-transportation, and "intermodal-air-and-ground-transportation" shall mean transportation involving the carriage of articles weighing not more than one hundred fifty (150) pounds by aircraft or other forms of transportation, including by motor vehicle, wholly within the Commonwealth of Kentucky. The incidental or occasional use of aircraft in transporting packages or articles

shall not constitute an integrated intermodal operation within the meaning of this section; or

(13) Motor vehicles operated pursuant to a grant of funds in furtherance of and governed by 49 U.S.C. secs. 5310 or 5311, including all amendments, and whose operators have jurisdictions and services approved annually by the Transportation Cabinet in accordance with 49 C.F.R. Title VI.

Section 16. KRS 304.17A-580 is amended to read as follows:

(1) Health benefit plans shall educate their insureds about the availability, location, and appropriate use of emergency and other medical services, cost-sharing provisions for emergency services, and the availability of care outside an emergency department.

(2) ***All*** health benefit plans using a defined network of health care providers shall cover ***emergency medical services and supplies and*** emergency department screening and stabilization services both in-network and out-of-network without prior authorization for use consistent with the prudent layperson standard.

(3) Emergency department personnel shall contact a patient's primary care provider or health benefit plan, as appropriate, as quickly as possible to discuss follow-up and poststabilization care and promote continuity of care.

(4) Nothing in this section shall apply to accident-only, specified disease, hospital indemnity, Medicare supplement, long-term care, disability income, or other limited benefit health insurance policies.

Section 17. KRS 304.39-020 is amended to read as follows:

As used in this subtitle:

(1) "Added reparation benefits" mean benefits provided by optional added reparation insurance.

(2) "Basic reparation benefits" mean benefits providing reimbursement for net loss suffered through injury arising out of the operation, maintenance or use of a motor vehicle, subject, where applicable, to the limits, deductibles, exclusions, disqualifications and other conditions provided in this subtitle. The maximum amount of basic reparation benefits payable for all economic loss resulting from injury to any one (1) person as the result of one (1) accident shall be ten thousand dollars ($10,000), regardless of the number of persons entitled to such benefits or the number of providers of security obligated to pay such benefits. Basic reparation benefits consist of one (1) or more of the elements defined as "loss."

(3) "Basic reparation insured" means:

(a) A person identified by name as an insured in a contract of basic reparation insurance complying with this subtitle; and

(b) While residing in the same household with a named insured, the following persons not identified by name as an insured in any other contract of basic reparation insurance complying with this subtitle: a spouse or other relative of a named insured; and a minor in the custody of a named insured or of a relative residing in the same household with the named insured if he usually makes his home in the same family unit, even though he temporarily lives elsewhere.

(4) "Injury" and "injury to person" mean bodily harm, sickness, disease, or death.

(5) "Loss" means accrued economic loss consisting only of medical expense, work loss, replacement services loss, and, if injury causes death, survivor's economic loss and survivor's replacement services loss. Noneconomic detriment is not loss. However, economic loss is loss although caused by pain and suffering or physical impairment.

(a) "Medical expense" means reasonable charges incurred for reasonably needed products, services, and accommodations, including those for medical care, physical rehabilitation, rehabilitative occupational training, ***licensed ambulance services,*** and other remedial treatment and care. "Medical expense" may include non-medical remedial treatment rendered in accordance with a recognized religious method of healing. The term includes a total charge not in excess of one thousand dollars ($1,000) per person for expenses in any way related to funeral, cremation, and burial. It does not include that portion of a charge for a room in a hospital, clinic, convalescent or nursing home, or any other institution engaged in providing nursing care and related services, in excess of a reasonable and customary charge for semi-private accommodations, unless intensive care is medically required. Medical expense shall include all healing arts professions licensed by the Commonwealth of Kentucky. There shall be a presumption that any medical bill submitted is reasonable.

(b) "Work loss" means loss of income from work the injured person would probably have performed if he had not been injured, and expenses reasonably incurred by him in obtaining services in lieu of those he would have performed for income, reduced by any income from substitute work actually performed by him.

(c) "Replacement services loss" means expenses reasonably incurred in obtaining ordinary and necessary services in lieu of those the injured person would have performed, not for income but for the benefit of himself or his family, if he had not been injured.

(d) "Survivor's economic loss" means loss after decedent's death of contributions of things of economic value to his survivors, not including services they would have received from the decedent if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of decedent's death.

(e) "Survivor's replacement services loss" means expenses reasonably incurred by survivors after decedent's death in obtaining ordinary and necessary services in lieu of those the decedent would have performed for their benefit if he had not suffered the fatal injury, less expenses of the survivors avoided by reason of the decedent's death and not subtracted in calculating survivor's economic loss.

(6) "Use of a motor vehicle" means any utilization of the motor vehicle as a vehicle including occupying, entering into and alighting from it. It does not include:

(a) Conduct within the course of a business of repairing, servicing, or otherwise maintaining motor vehicles unless the conduct occurs off the business premises; or

(b) Conduct in the course of loading and unloading the vehicle unless the conduct occurs while occupying, entering into, or alighting from it.

(7) "Motor vehicle" means any vehicle which transports persons or property upon the public highways of the Commonwealth, propelled by other than muscular power except road rollers, road graders, farm tractors, vehicles on which power shovels are mounted, such other construction equipment customarily used only on the site of construction and which is not practical for the transportation of persons or property upon the highways, such vehicles as travel exclusively upon rails and such vehicles as are propelled by electrical power obtained from overhead wires while being operated within any municipality or where said vehicles do not travel more than five (5) miles beyond the said limits of any municipality. Motor vehicle shall not mean moped as defined in this section.

(8) "Moped" means either a motorized bicycle whose frame design may include one (1) or more horizontal crossbars supporting a fuel tank so long as it also has pedals, or a motorized bicycle with a step through type frame which may or may not have pedals rated no more than two (2) brake horsepower, a cylinder capacity not exceeding fifty (50) cubic centimeters, an automatic transmission not requiring clutching or shifting by the operator after the drive system is engaged, and capable of a maximum speed of not more than thirty (30) miles per hour.

(9) "Public roadway" means a way open to the use of the public for purposes of motor vehicle travel.

(10) "Net loss" means loss less benefits or advantages, from sources other than basic and added reparation insurance, required to be subtracted from loss in calculating net loss.

(11) "Noneconomic detriment" means pain, suffering, inconvenience, physical impairment, and other nonpecuniary damages recoverable under the tort law of this Commonwealth. The term does not include punitive or exemplary damages.

(12) "Owner" means a person, other than a lienholder or secured party, who owns or has title to a motor vehicle or is entitled to the use and possession of a motor vehicle subject to a security interest held by another person. The term does not include a lessee under a lease not intended as security.

(13) "Reparation obligor" means an insurer, self-insurer, or obligated government providing basic or added reparation benefits under this subtitle.

(14) "Survivor" means a person identified in KRS 411.130 as one entitled to receive benefits by reason of the death of another person.

(15) A "user" means a person who resides in a household in which any person owns or maintains a motor vehicle.

(16) "Maintaining a motor vehicle" means having legal custody, possession or responsibility for a motor vehicle by one other than an owner or operator.

(17) "Security" means any continuing undertaking complying with this subtitle, for payment of tort liabilities, basic reparation benefits, and all other obligations imposed by this subtitle.

Section 18. KRS 311.550 is amended to read as follows:

As used in KRS 311.530 to 311.620 and KRS 311.990(4) to (6):

(1) "Board" means the State Board of Medical Licensure;

(2) "President" means the president of the State Board of Medical Licensure;

(3) "Secretary" means the secretary of the State Board of Medical Licensure;

(4) "Executive director" means the executive director of the State Board of Medical Licensure or any assistant executive directors appointed by the board;

(5) "General counsel" means the general counsel of the State Board of Medical Licensure or any assistant general counsel appointed by the board;

(6) "Regular license" means a license to practice medicine or osteopathy at any place in this state;

(7) "Limited license" means a license to practice medicine or osteopathy in a specific institution or locale to the extent indicated in the license;

(8) "Temporary permit" means a permit issued to a person who has applied for a regular or limited license, and who appears from verifiable information in the application to the secretary to be qualified and eligible therefor;

(9) "Emergency permit" means a permit issued to a physician currently licensed in another state, authorizing the physician to

practice in this state for the duration of a specific medical emergency, not to exceed thirty (30) days;

(10) Except as provided in subsection (11) of this section, the "practice of medicine or osteopathy" means the diagnosis, treatment, or correction of any and all human conditions, ailments, diseases, injuries, or infirmities by any and all means, methods, devices, or instrumentalities;

(11) The "practice of medicine or osteopathy" does not include the practice of Christian Science, the practice of podiatry as defined in KRS 311.380, the practice of a midlevel health care practitioner as defined in KRS 216.900, the practice of dentistry as defined in KRS 313.010, the practice of optometry as defined in KRS 320.210, the practice of chiropractic as defined in subsection (2) of KRS 312.015, the practice as a nurse as defined in KRS 314.011, the practice of physical therapy as defined in KRS 327.010, the performance of duties for which they have been trained by ***paramedics licensed under KRS 311.652 to 311.658, emergency medical technician first responders, or*** emergency medical technicians~~[or medical emergency dispatchers]~~ certified ***under KRS 311.652 to 311.658***~~[by the Cabinet for Health Services]~~, the practice of pharmacy by persons licensed and registered under KRS 315.050, the sale of drugs, nostrums, patented or proprietary medicines, trusses, supports, spectacles, eyeglasses, lenses, instruments, apparatus, or mechanisms that are intended, advertised, or represented as being for the treatment, correction, cure, or relief of any human ailment, disease, injury, infirmity, or condition, in regular mercantile establishments, or the practice of midwifery by women. KRS 311.530 to 311.620 shall not be construed as repealing the authority conferred on the Cabinet for Health Services by KRS Chapter 211 to provide for the instruction, examination, licensing, and registration of all midwives through county health officers;

(12) "Physician" means a doctor of medicine or a doctor of osteopathy;

(13) "Grievance" means any allegation in whatever form alleging misconduct by a physician;

(14) "Charge" means a specific allegation alleging a violation of a specified provision of this chapter;

(15) "Complaint" means a formal administrative pleading that sets forth charges against a physician and commences a formal disciplinary proceeding;

(16) As used in KRS 311.595(4), "crimes involving moral turpitude" shall mean those crimes which have dishonesty as a fundamental and necessary element, including, but not limited to, crimes involving theft, embezzlement, false swearing, perjury, fraud, or misrepresentation;

(17) "Physician assistant" means a person who has graduated from a physician assistant or surgeon assistant program accredited by the American Medical Association's Committee on Allied Health Education and Accreditation or the Commission on Accreditation of Allied Health Education Programs and who has passed the certifying examination administered by the National Commission on Certification of Physician Assistants or who possesses a current physician assistant certificate issued by the board prior to July 15, 1998;

(18) "Supervising physician" means a physician licensed by the board who supervises physician assistants; and

(19) "Supervision" means overseeing the activities of, and accepting responsibility for, the medical services rendered by a physician assistant. The constant physical presence of the supervising physician is not required so long as the supervising physician and physician assistant are or can be easily in contact with one another by radio, telephone, or other telecommunication device. Each team of physicians and physician assistants shall ensure that the delegation of medical tasks is appropriate to the physician assistant's level of training and experience; that the identification of and access to the supervising physician is defined; and that a process for evaluation of the physician assistant's performance is established.

SECTION 19. A NEW SECTION OF KRS 311.652 TO 311.658 IS CREATED TO READ AS FOLLOWS:

(1) When the Kentucky Board of Emergency Medical Services is engaged in the investigation or discipline of an entity licensed by the Kentucky Board of Emergency Medical Services, or a paramedic, emergency medical technician first responder, or emergency medical technician, or it is alleged that a paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as a paramedic, emergency medical technician first responder or emergency medical technician, the paramedic, emergency medical technician first responder, emergency medical technician, his or her employer, and the ambulance service's medical director shall be parties to the action and have the right to testify at any deposition, hearing, or other proceeding relating to the investigation or discipline of the paramedic, emergency medical technician first responder, or emergency medical technician.

(2) The paramedic, emergency medical technician first responder, emergency medical technical, his or her employer, and the ambulance service's medical director shall have the right to appeal any portion of a decision of the Kentucky Board of Emergency Medical Services that affects them to the Franklin Circuit Court.

(3) The Kentucky Board of Emergency Medical Services shall investigate any complaint against an entity regulated by the board, a paramedic, emergency medical technician first responder, or emergency medical technician and make findings of fact and conclusions of law.

(4) If it appears that the entity regulated by the board, the paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, emergency medical technician first responder, or

emergency medical technician, the board shall hold a full hearing under KRS Chapter 13B to determine whether the violation occurred. If it is determined that an entity regulated by the Kentucky Board of Emergency Medical Services, a paramedic, emergency medical technician first responder, or emergency medical technician has violated a statute, administrative regulation, protocol, or practice standard relating to serving as an entity regulated by the board, a paramedic, emergency medical technician first responder, or emergency medical technician, the Kentucky Board of Emergency Medical Services may impose any of the sanctions provided in subsection (5) of this section. Any party to the complaint shall have the right to introduce the findings of fact and conclusions of law.

(5) The Kentucky Board of Emergency Medical Services may use any one (1) or more of the following sanctions when disciplining any entity regulated by the board, paramedic, emergency medical technician first responder, or emergency medical technician:

(a) Private reprimand that shall be shared with each of the paramedic's, emergency medical technician first responder's, or emergency medical technician's employer and medical director;

(b) Public reprimand;

(c) Fines;

(d) Revocation of certification or licensure;

(e) Suspension of licensure until a time certain;

(f) Suspension until a certain act or acts are performed;

(g) Limitation of practice permanently;

(h) Limitation of practice until a time certain;

(i) Limitation of practice until a certain act or acts are performed; or

(j) Repassing a portion of the paramedic or emergency medical technician examination.

Section 20. KRS 311.652 is amended to read as follows:

No person shall:

(1) Hold himself out as ***licensed***[~~certified~~] pursuant to KRS ***311.652***[~~311.650~~] to 311.658 nor use the term "paramedic" when he does not hold a current valid ***license***[~~certification~~] issued pursuant to KRS ***311.652***[~~311.650~~] to 311.658; or

(2) If ***licensed***[~~certified~~], violate any provision of KRS ***311.652***[~~311.650~~] to 311.658 or any ***administrative***[~~rule or~~] regulation, adopted by the ***Kentucky Board of Emergency Medical Services***[~~board of Medical Licensure~~], relating to KRS 311.654.

Section 21. KRS 311.654 is amended to read as follows:

(1) The ***Kentucky*** Board of ***Emergency*** Medical ***Services***[~~Licensure~~] shall promulgate administrative regulations relating to paramedics. The regulations may include, but need not be limited to, the classification and ***licensure***[~~certification~~] of paramedics, instructor-trainers, instructors, and students and trainees; examinations; standards of training and experience; curricula standards; administration of drugs and controlled substances by paramedics under the direction or supervision of licensed physicians; issuance, renewal, suspension, denial, and revocation of ***licenses***[~~certificates~~], and such other reasonable standards or regulations as may be necessary for the protection of public health and safety in the delivery of emergency medical services.

(2) ***Relicensure programs shall be organized to include continuing education and in-service training approved by the board.*** Any continuing education required by the ***Kentucky*** Board of ***Emergency*** Medical ***Services***[~~Licensure~~] shall include a ***Board***[~~Cabinet for Health Services~~] approved educational course on the transmission, control, treatment, and prevention of the human immunodeficiency virus and acquired immunodeficiency syndrome with an emphasis on appropriate behavior and attitude change.

[~~(3) The Kentucky Board of Medical Licensure shall enter into an agreement with the Cabinet for Health Services whereby the cabinet's lead agency for emergency medical services shall carry out the day-to-day administration of this section under administrative regulations promulgated by the Board of Medical Licensure. The Kentucky Emergency Medical Services Council will provide advice and recommendations to the Kentucky Board of Medical Licensure related to the provisions of KRS 311.650 to 311.658.~~]

Section 22. KRS 311.656 is amended to read as follows:

The ***Kentucky*** Board ***of Emergency Medical Services***[~~ of Medical Licensure~~] may, by ***administrative*** regulation, prescribe a reasonable schedule of fees and charges for examinations, for the issuance of ***licenses***[~~certificates~~], and for the renewal of ***licenses***[~~certificates~~] issued pursuant to KRS ***311.652***[~~311.650~~] to 311.658. All such fees, charges or other moneys collected by the board[~~ of Medical Licensure~~] under KRS ***311.652***[~~311.650~~] to 311.658 shall be paid into the State Treasury and credited to a trust and agency fund to be used by the board[~~ of Medical Licensure~~] for carrying out the provisions of KRS ***311.652***[~~311.650~~] to 311.658.

Section 23. KRS 311.658 is amended to read as follows:

(1) At the discretion of the employer's medical director, a paramedic may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics published by the United States Department of Transportation. An emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technicians. An emergency medical technician first responder may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for emergency medical technician first responders. Any paramedic, emergency medical technician first responder, or emergency medical technician may perform any additional procedure authorized by the Kentucky Board of Emergency Medical Services if approved by the employer's medical director and within the scope of the designated practice based upon national practice standards. With the approval of the employer's medical director, a paramedic, emergency medical technician first responder, or emergency medical technician may perform any procedure specified in the most recent curriculum of the United States Department of Transportation training course for paramedics or the most recent national standard curriculum for emergency medical technicians-basic or emergency medical technician first responder published by the United States Department of Transportation respectively, and other procedure authorized by the Kentucky Board of Emergency Medical Services. Nothing in this subsection shall prevent an employer from exercising reasonable fiscal control over the costs of providing emergency medical services to its citizens nor prevent the employer from exercising any reasonable control over paramedics, emergency medical technician first responders, or emergency medical technicians providing emergency medical care upon behalf of the licensed entity.

(2) Any paramedic may draw blood samples from a criminal defendant upon the request of a peace officer and the consent of the defendant, or without the consent of the defendant upon receipt of a court order requiring the procedure, if the paramedic is authorized to do so by his or her employer. The authorization shall be in writing and may be by general written policy of the employer and the service's medical director. The paramedic who drew the blood sample shall deliver the sample to the peace officer or other person specified by the court in a court order and shall testify in court with regard thereto upon service of a proper subpoena.

(3) Paramedics shall be permitted to render services only[~~ in emergency situations, and shall perform such services~~] under supervision of a qualified and licensed *physician*[~~health practitioner~~].

Section 24. KRS 311.660 is amended to read as follows:

(1) When it appears that a person whom a paramedic who has successfully completed training in determination of death has been called to attend is dead, the paramedic shall, utilizing the protocol specified by the board by administrative regulation, determine whether or not the patient is dead after resuscitation of the patient is attempted by the paramedic or an emergency medical technician who has responded with or after the paramedic, unless the protocol indicates that the patient is not capable of being resuscitated. If, after resuscitation has been attempted on a patient who the protocol deems is capable of being resuscitated, the patient has not been successfully resuscitated according to the protocol, the paramedic may discontinue further resuscitation efforts and proceed to determine whether the patient is dead and whether to declare the patient dead. If it is determined that death has occurred in accordance with the procedures of KRS 446.400 with regard to patients who have not been resuscitated, the paramedic may make the actual determination and pronouncement of death. This section shall not apply to patients who are in a hospital when apparent death occurs.

(2) In the event that a paramedic determines that a person is dead, the paramedic shall make the notifications required by KRS 72.020 and take the protective actions required by that statute.

(3) Any paramedic course taught after July 15, 1998, shall include a course of instruction on the determination of death and preservation of evidence as required by the *Kentucky Board of Emergency Medical Services*[~~ board of Medical Licensure~~] by administrative regulation.

(4) Any paramedic *relicensed*[~~recertified~~] within the *three (3)*[~~two (2)~~] years following July 15, 1998, shall successfully complete in-service training required by the *Kentucky Board of Emergency Medical Services*[~~ board of Medical Licensure~~] by administrative regulation relating to determination of death and preservation of evidence. Any paramedic who does not successfully complete the required in-service training shall not be *relicensed*[~~recertified~~].

(5) Any paramedic from another jurisdiction desiring to become a paramedic in Kentucky shall show evidence of successful completion of a training course in Kentucky meeting the requirements of subsection (4) of this section, and *licensure*[~~certification~~] as a paramedic shall be denied if the required evidence is not shown.

(6) The administration of cardiopulmonary resuscitation or other basic life support measures to the apparently dead person prior to the arrival of the paramedic by any person, for the purposes of this section and KRS 446.400, shall not be considered as artificial maintenance of respiration and circulation. The administration of advanced cardiac life support procedures by any person, other than a registered nurse rendering care pursuant to KRS 314.181, prior to the arrival of the paramedic shall preclude the determination of death by the paramedic, and the provisions of KRS 446.400 shall apply. However, nothing in this section shall preclude the supervising physician from directing the paramedic to cease resuscitative efforts under approved agency medical protocols.

(7) The resuscitative efforts of a paramedic under the protocols authorized by this section shall not invoke the provisions of KRS 446.400.

Section 25. KRS 311.990 is amended to read as follows:

(1) Any person who violates KRS 311.250 shall be guilty of a violation.

(2) Any college or professor thereof violating the provisions of KRS 311.300 to 311.350 shall be civilly liable on his bond for a sum not less than one hundred dollars ($100) nor more than one thousand dollars ($1,000) for each violation, which may be recovered by an action in the name of the Commonwealth.

(3) Any person who presents to the county clerk for the purpose of registration any license which has been fraudulently obtained, or obtains any license under KRS 311.380 to 311.510 by false or fraudulent statement or representation, or practices podiatry under a false or assumed name or falsely impersonates another practitioner or former practitioner of a like or different name, or aids and abets any person in the practice of podiatry within the state without conforming to the requirements of KRS 311.380 to 311.510, or otherwise violates or neglects to comply with any of the provisions of KRS 311.380 to 311.510, shall be guilty of a Class A misdemeanor. Each case of practicing podiatry in violation of the provisions of KRS 311.380 to 311.510 shall be considered a separate offense.

(4) Each first violation of KRS 311.560 is a Class A misdemeanor. Each subsequent violation of KRS 311.560 shall constitute a Class D felony.

(5) Each violation of KRS 311.590 shall constitute a Class D felony. Conviction under this subsection of a holder of a license or permit shall result automatically in permanent revocation of such license or permit.

(6) Conviction of willfully resisting, preventing, impeding, obstructing, threatening, or interfering with the board or any of its members, or of any officer, agent, inspector, or investigator of the board or the Cabinet for Health Services, in the administration of any of the provisions of KRS 311.550 to 311.620 shall be a Class A misdemeanor.

(7) Each violation of subsection (1) of KRS 311.375 shall, for the first offense, be a Class B misdemeanor, and, for each subsequent offense shall be a Class A misdemeanor.

(8) Each violation of subsection (2) of KRS 311.375 shall, for the first offense, be a violation, and, for each subsequent offense, be a Class B misdemeanor.

(9) Each day of violation of either subsection of KRS 311.375 shall constitute a separate offense.

(10) (a) Any person who intentionally or knowingly performs an abortion contrary to the requirements of KRS 311.723(1) shall be guilty of a Class D felony; and

(b) Any person who intentionally, knowingly, or recklessly violates the requirements of KRS 311.723(2) shall be guilty of a Class A misdemeanor.

(11) (a) 1. Any physician who performs a partial-birth abortion in violation of KRS 311.765 shall be guilty of a Class D felony. However, a physician shall not be guilty of the criminal offense if the partial-birth abortion was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury.

2. A physician may seek a hearing before the State Board of Medical Licensure on whether the physician's conduct was necessary to save the life of the mother whose life was endangered by a physical disorder, illness, or injury. The board's findings, decided by majority vote of a quorum, shall be admissible at the trial of the physician. The board shall promulgate administrative regulations to carry out the provisions of this subparagraph.

3. Upon a motion of the physician, the court shall delay the beginning of the trial for not more than thirty (30) days to permit the hearing, referred to in subparagraph 2. of this paragraph, to occur.

(b) Any person other than a physician who performs a partial-birth abortion shall not be prosecuted under this subsection but shall be prosecuted under provisions of law which prohibit any person other than a physician from performing any abortion.

(c) No penalty shall be assessed against the woman upon whom the partial-birth abortion is performed or attempted to be performed.

(12) Any person who intentionally performs an abortion with knowledge that, or with reckless disregard as to whether, the person upon whom the abortion is to be performed is an unemancipated minor, and who intentionally or knowingly fails to conform to any requirement of KRS 311.732 is guilty of a Class A misdemeanor.

(13) Any person who negligently releases information or documents which are confidential under KRS 311.732 is guilty of a Class B misdemeanor.

(14) Any person who performs an abortion upon a married woman either with knowledge or in reckless disregard of whether KRS 311.735 applies to her and who intentionally, knowingly, or recklessly fails to conform to the requirements of KRS 311.735 shall be guilty of a Class D felony.

(15) Any person convicted of violating KRS 311.750 shall be guilty of a Class B felony.

(16) Any person who violates KRS 311.760(2) shall be guilty of a Class D felony.

(17) Any person who violates KRS 311.770 or 311.780 shall be guilty of a Class D felony.

(18) A person convicted of violating KRS 311.780 shall be guilty of a Class C felony.

(19) Any person who violates KRS 311.810 shall be guilty of a Class A misdemeanor.

(20) Any professional medical association or society, licensed physician, or hospital or hospital medical staff who shall have violated the provisions of KRS 311.606 shall be guilty of a Class B misdemeanor.

(21) Any person who ***falsely represents that he or she is a paramedic, emergency medical technician first responder or medical technician***~~[violates KRS 311.652 or any rule or regulation of the board of medical licensure adopted pursuant to KRS 311.654]~~ shall be guilty of a Class A misdemeanor.

(22) Any administrator, officer, or employee of a publicly-owned hospital or publicly-owned health care facility who performs or permits the performance of abortions in violation of KRS 311.800(1) shall be guilty of a Class A misdemeanor.

(23) Any person who violates KRS 311.914 shall be guilty of a violation.

(24) Any person who violates the provisions of KRS 311.820 shall be guilty of a Class A misdemeanor.

(25) (a) Any person who fails to test organs, skin, or other human tissue which is to be transplanted, or violates the confidentiality provisions required by KRS 311.281, shall be guilty of a Class A misdemeanor;

(b) Any person who has human immunodeficiency virus infection, who knows he is infected with human immunodeficiency virus, and who has been informed that he may communicate the infection by donating organs, skin, or other human tissue who donates organs, skin, or other human tissue shall be guilty of a Class D felony.

(26) A person who violates any provision of KRS 311.131 to 311.139 or any regulation adopted under KRS 311.131 to 311.139 shall be guilty of a Class A misdemeanor. Each day a violation is continued after the first conviction shall be a separate offense.

(27) Any person who sells or makes a charge for any transplantable organ shall be guilty of a Class D felony.

(28) Any person who offers remuneration for any transplantable organ for use in transplantation into himself shall be fined not less than five thousand dollars ($5,000) nor more than fifty thousand dollars ($50,000).

(29) Any person brokering the sale or transfer of any transplantable organ shall be guilty of a Class C felony.

(30) Any person charging a fee associated with the transplantation of a transplantable organ in excess of the direct and indirect costs of procuring, distributing, or transplanting the transplantable organ shall be fined not less than fifty thousand dollars ($50,000) nor more than five hundred thousand dollars ($500,000).

(31) Any hospital performing transplantable organ transplants which knowingly fails to report the possible sale, purchase, or brokering of a transplantable organ shall be fined not less than ten thousand dollars ($10,000) or more than fifty thousand dollars ($50,000).

Section 26. The following KRS sections are repealed:

211.9533 Emergency Medical Services for Children Advisory Committee.

211.9535 Biennial report on EMSC Program.

211.956 Matching fund program for providing trained emergency medical service personnel.

211.960 Title.

311.650 Definition.

Section 27. There is appropriated two million six hundred fifty thousand dollars ($2,650,000) for the 2000-2001 fiscal year and two million six hundred fifty thousand dollars ($2,650,000) for the 2001-2002 fiscal year out of the General Fund in the State Treasury for the purposes of funding the functions of the Kentucky Board of Emergency Medical Services and to provide grants to local units of government for emergency medical services.

Section 28. The following implementation schedule shall apply to this Act:

(1) The members of the Kentucky Board of Emergency Medical Services shall be appointed by the Governor on September 1, 2000.

(2) The board shall hire an executive director and essential staff on November 1, 2000.

(3) The Kentucky Board of Emergency Medical Services, the Cabinet for Health Services, and the Kentucky Board of Medical Licensure may implement a transfer of fees, funds, functions, equipment, personal property, and records at any time mutually agreed upon after January 1, 2001, but no later than April 1, 2001.

(4) Until such time as a function is transferred by the Cabinet for Health Services to the Kentucky Board of Emergency Medical Services or the Kentucky Board of Medical Licensure the functions shall remain the duty of the Cabinet for Health Services or the Kentucky Board of Medical Licensure.

(5) All causes relating to the provisions of Sections 1 to 25 of this Act pending before the Cabinet for Health Services on January 1, 2001, shall be transferred to the Kentucky Board of Emergency Medical Services no later than April 1, 2001.

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Judiciary: **SB 11, SB 107, HB 217, HB 378, HB 798, SB 109, HB 1023, HB 714, HB 830**

The Clerk announced that the following Bill has been withdrawn from Committee consideration:

Judiciary: **HB 602**

Representative Ratliff moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Ratliff moved the adoption of the following **Legislative Citation No. 93**.

The House of Representatives of the Commonwealth of Kentucky hereby welcomes the members of the Pike County Central High School Chorus upon the occasion of their visit to the Chambers of the House of Representatives on this day of the 2000 Regular Session of the Kentucky General Assembly. These talented and enthusiastic students are further offered sincere gratitude upon regaling the members of this distinguished body with tunes which showcase their musical talents and skills. The members of this august body are delighted to join Representative Chris Ratliff in applauding the performance of the Pike County Central High School Chorus, in expressing sincere appreciation to them for demonstrating their interest in the legislative process by their visit today and in extending to them best wishes for success and good fortune as they continue to touch the lives of those for whom they most graciously perform. Done in Frankfort, this seventh day of March, in the year two thousand.

Legislative Citation No. 93 was adopted without objection.

The Pike County Central High School Chorus performed.

Representative Richards moved that the rules be suspended to grant floor privileges and to act upon a Legislative Citation. Agreed.

Representative Richards moved the adoption of the following **Legislative Citation No. 92**.

The House of Representatives of the Commonwealth of Kentucky hereby honors Skila Harris upon the occasion of her appointment as the 25th member of the Tennessee Valley Authority Board of Directors by President Bill Clinton and her confirmation by the United States Senate on November 10, 1999. A graduate of Western Kentucky and George Washington Universities and the first woman ever to hold the title of TVA Director, Ms. Harris brings to her post a wealth of experience in the electric utility industry. This distinguished lady served in the Department of Energy in both the Clinton and Carter administrations, acted as special assistant to Vice President Al Gore, as chief of staff for Tipper Gore and, in the private sector, was vice president for development and compliance at Steiner-Leff Iron and Metal Company and a contract and project manager for the Synthetic Fuels Corporation. Most recently Skila Harris was Executive Director of the U.S. Secretary of Energy Advisory Board, the highest level advisory board in the DOE, where she managed the efforts of the Tennessee Valley Advisory Committee comprised of representatives of groups with an interest in the future of TVA. Inasmuch as this phenomenal administrator has been extensively involved in the restructuring of the electric utility industry in many capacities, the members of this august body are honored to join Speaker Jody Richards in applauding the distinct effort that Skila Harris has put forth to advocate the protection and preservation of public power and in extending to her sincere best wishes for prosperity and success in this new and distinguished office. Done in Frankfort, this seventh day of March, in the year two thousand.

Legislative Citation No. 92 was adopted without objection.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Senate Message

Announcing passage of **SB 119, SB 257,** and **SB 316**. (Time: 2:35 p.m.)

Message in regard to **HB 127**: The Senate has passed **HB 127** by way of Senate Committee Substitute and respectfully requests concurrence of this Honorable Body.

Report of Committees (Continued)

The Committee on Rules reported that **HB 676, HB 733, HB 399, HB 677, HB 819, HJR 122, HB 636,** and **HB 787** have been posted for passage in the Orders of the Day for March 8, 2000.

The Committee on Rules reported that the following Bills have been recommitted:

Appropriations and Revenue: **HB 440, HB 792**

Report On Enrolled Bills

HB 377 delivered to the Senate and signed by the President. Delivered to the Governor on March 7, 2000, at 2:28 p.m.

The Committee on Enrollment reported that **SB 14** has been examined and found correctly enrolled. Said Bill was read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -2:50 p.m.)

Orders of the Day

HB 805, with Committee Substitute and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 805**. Agreed.

Representative Gooch moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 805**. Agreed.

Representative Gooch moved that **HB 805**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 7, 2000 roll call on **HB 805** - Appendix.)

HB 805, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 805**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 806, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Gooch moved the adoption of the Committee Substitute to **HB 806**. Agreed.

Representative Gooch moved that **HB 806**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 96, Nays 0**. (See March 7, 2000 roll call on **HB 806** - Appendix.)

HB 806, by way of Committee Substitute, was passed and the title agreed to.

Representative Gooch moved that the vote by which **HB 806**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 82 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Treesh moved that **HCR 82** be adopted.

On the roll call the vote was: **Yeas 88, Nays 4**. (See March 7, 2000 roll call on **HCR 82** - Appendix.)

HCR 82 was adopted.

Representative Treesh moved that the vote by which **HCR 82** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 765, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved the adoption of Committee Amendment No. 1 to **HB 765**. Agreed.

Representative Branham moved that **HB 765**, as amended, be passed.

On the roll call the vote was: **Yeas 92**, **Nays 0**. (See March 7, 2000 roll call on **HB 765** - Appendix.)

HB 765, as amended, was passed and the title agreed to.

Representative Branham moved that the vote by which **HB 765**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 526, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Draud moved the adoption of the Committee Substitute to **HB 526**. Agreed.

Representative Draud moved that **HB 526**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 94**, **Nays 1**. (See March 7, 2000 roll call on **HB 526** - Appendix.)

HB 526, by way of Committee Substitute, was passed and the title agreed to.

Representative Draud moved that the vote by which **HB 526**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 875, with Committee Amendment and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Riggs moved the adoption of Committee Amendment No. 1 to **HB 875**. Agreed.

Representative Riggs moved the adoption of Floor Amendment No. 1 to **HB 875**. Agreed.

Representative Riggs moved that Floor Amendment No. 2 to **HB 875** not be considered. Agreed.

Representative Riggs moved that **HB 875**, as amended, be passed.

On the roll call the vote was: **Yeas 91**, **Nays 2**. (See March 7, 2000 roll call on **HB 875** - Appendix.)

HB 875, as amended, was passed and the title agreed to.

Representative Riggs moved that the vote by which **HB 875**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 599, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Childers moved the adoption of the Committee Substitute No. 2 to **HB 599**. Agreed.

Representative Childers moved that adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 599**. Agreed.

Representative Webb moved that **HB 599**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 1**. (See March 7, 2000 roll call on **HB 599** - Appendix.)

HB 599, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Childers moved that the vote by which **HB 599**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 292, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Branham moved the adoption of Floor Amendment No. 1 to **HB 292**. Agreed.

Representative Branham moved that **HB 292**, as amended, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 0**. (See March 7, 2000 roll call on **HB 292** - Appendix.)

HB 292, as amended, was passed and the title agreed to.

Representative Branham moved that the vote by which **HB 292**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 108 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Ratliff moved that **HCR 108** be adopted.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 7, 2000 roll call on **HCR 108** - Appendix.)

HCR 108 was adopted.

Representative Ratliff moved that the vote by which **HCR 108** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 1, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Stumbo moved the adoption of the Committee Substitute to **HB 1**. Agreed.

Representative Stumbo moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 1**.

On the roll call the vote was: **Yeas 56**, **Nays 38**. (See March 7, 2000 roll call on the motion to adopt Floor Amendment No. 10 to the Committee Substitute to **HB 1**-Appendix)

Floor Amendment No. 10 to the Committee Substitute to **HB 1** was adopted.

Representative Stumbo moved the adoption of Floor Amendment No. 11 to the Committee Substitute to **HB 1**. Agreed.

The Speaker Pro Tem assumed the Chair.

Representative Stumbo moved that **HB 1**, by way of Committee Substitute as amended, be passed.

Representative Anderson moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 1**. Defeated.

The Speaker resumed the Chair.

Representative Anderson moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 1**. Defeated.

Representative Allen inquired if **HB 1** was a revenue bill and would it require fifty-one votes for passage.

The Speaker ruled that **HB 1** was not a revenue bill therefor it did not require fifty-one votes.

Representative Stumbo moved that **HB 1**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 41**, **Nays 54**. (See March 7, 2000 roll call on **HB 1** - Appendix.)

HB 1, by way of Committee Substitute as amended, was defeated.

HB 712, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Buckingham moved that **HB 712** be adopted.

On the roll call the vote was: **Yeas 93, Nays 0**. (See March 7, 2000 roll call on **HB 712** - Appendix.)

HB 712 was adopted.

Representative Buckingham moved that the vote by which **HB 712** was adopted be reconsidered and said motion be placed on the table. Agreed.

HB 452, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Damron moved the adoption of the Committee Substitute to **HB 452**. Agreed.

Representative Damron moved that **HB 452**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 7, 2000 roll call on **HB 452** - Appendix.)

HB 452, by way of Committee Substitute, was passed and the title agreed to.

Representative Damron moved that the vote by which **HB 452**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 100, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Cherry moved the adoption of the Committee Substitute to **HB 100**. Agreed.

Representative Cherry moved that **HB 100**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 93, Nays 1**. (See March 7, 2000 roll call on **HB 100** - Appendix.)

HB 100, by way of Committee Substitute, was passed and the title agreed to.

Representative Cherry moved that the vote by which **HB 100**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 706, with Committee Substitutes and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Burch moved the adoption of the Committee Substitute No. 2 to **HB 706**. Agreed.

Representative Burch moved that **HB 706**, by way of Committee Substitute No. 2, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 7, 2000 roll call on **HB 706** - Appendix.)

HB 706, by way of Committee Substitute No. 2, was passed and the title agreed to.

Representative Burch moved that the vote by which **HB 706**, by way of Committee Substitute No. 2, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 8, 2000. Agreed.

Representative Stumbo moved that **HB 296** be placed in the Orders of the Day for March 8, 2000. Agreed.

Representative Stumbo moved that the three day posting requirement on **HB 727, HB 248, HB 946,** and **SB 233** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees (Continued)

The Committee on Seniors, Military Affairs, and Public Safety reported **HB 896,** with Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 896, AN ACT relating to the establishment of a program to encourage retirees to make their homes in Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 148 IS CREATED TO READ AS FOLLOWS:

(1) The Department of Travel of the Tourism Development Cabinet shall, after appropriate research has been conducted, establish and maintain a Kentucky Certified Retirement Community Program whereby retirees and those planning to retire are encouraged to make their homes in Kentucky communities that have met certain criteria to be certified by the Tourism Development Cabinet as a Kentucky certified retirement community. In support of this program, the Department of Travel shall identify certain areas of interest to retirees or potential retirees in order to inform them of the benefits of living in Kentucky. Issues of interest to retirees may include, but are not limited to, Kentucky's state and local tax structure, housing opportunities and cost, climate, personal safety, working opportunities, health care services, transportation, continuing education, leisure living, recreation, the performing arts, festivals and events, and sports at all levels.

(2) The mission of the Kentucky Certified Retirement Community Program shall be to:

(a) Promote the state as a retirement destination to retirees and those persons and families who are planning retirement both in and outside of Kentucky;

(b) Assist Kentucky communities in their efforts to market themselves as retirement locations and to develop communities that retirees would find attractive for a retirement lifestyle;

(c) Assist in the development of retirement communities and lifecare communities for economic development purposes and as a means of providing a potential workforce and enriching Kentucky communities; and

(d) Encourage tourism to Kentucky in the form of mature market travel to Kentucky in reference to retirement desirability for the future, and for the visitation of those who have chosen to retire in Kentucky.

(3) The Tourism Development Cabinet shall coordinate the development and planning of the Kentucky Certified Retirement Community Program with the Cabinet for Economic Development, the Office of Aging Services in the Cabinet for Health Services, and other state and local groups interested in participating in and promoting the program.

(4) To obtain certification as a Kentucky certified retirement community, the following requirements shall be met:

(a) Official community support. A resolution by the governing authority endorsing the local retirement recruitment effort is required;

(b) Designation of a sponsor. The program shall have an official sponsoring organization that shall appoint an individual who will be accountable to the community and to the state;

(c) Funding. The sponsoring organization must commit a minimum of ten thousand dollars ($10,000) per year for the local program;

(d) Hospital. There shall be a hospital that is readily accessible to the community;

(e) Available housing. The community shall maintain information on both resale housing and rental housing to ensure that the quantity is sufficient to meet the needs of potential new retiree residents;

(f) Retiree desirability assessment. The community shall conduct a retiree desirability assessment that shall focus on a number of factors including, but not limited to medical services, adult education opportunities, shopping, recreation, cultural opportunities, and safety;

(g) Establishment of subcommittees. Each locality shall have a general retiree attraction committee and a minimum of four (4) subcommittees as follows:

1. Community inventory/assessment subcommittee. This subcommittee shall conduct an unbiased inventory and assessment of whether the community can offer the basics that retirees demand and develop a professional portfolio containing brief biographies of professionals in the community;

2. Community relations/fundraising subcommittee. This subcommittee shall locate retirees living in the community, act as salespersons for the program, raise funds necessary to run the program, recruit subcommittee members, organize special events, and promote and coordinate the program with local entities;

3. Marketing and promotion subcommittee. This subcommittee shall establish a community image, evaluate target markets, develop and distribute promotional material, and coordinate advertising and public relations campaigns; and

4. Ambassadors subcommittee. This subcommittee shall be the first contact with prospective retirees and provide tour guides when prospects visit the community. The subcommittee shall respond to inquiries, log contacts made, provide tours, invite prospects to special community events, and maintain continual contact with prospects until the time that the prospect makes a retirement location decision;

(h) Community profile. The sponsor shall develop a community profile similar to that used by many chambers of commerce. It will include factors such as crime statistics, tax information, recreational opportunities, and housing availability; and

(i) Written marketing plan. The retiree attraction committee shall submit a marketing plan that shall detail the mission, the target market, the competition, an analysis of the community's strengths, weaknesses, opportunities and threats, and the strategies the program will employ to attain its goals.

(5) During the certification process, a representative of the retirement attraction committee shall attend state training meetings.

(6) The retiree attraction committee shall work to gain the support of churches, clubs, businesses, and the local media, as this support is necessary for the success of the program.

(7) Within ninety (90) days of certification, the locality shall submit a complete retiree attraction package to the Department of Travel.

(8) Before certification is awarded, the retiree attraction committee shall make a written three (3) year commitment to the program. The written commitment shall be forwarded to the Department of Travel of the Tourism Development Cabinet.

(9) Upon being certified as a Kentucky certified retirement community, the Tourism Development Cabinet shall provide the following assistance to the community:

(a) Assistance in the training of local staff and volunteers;

(b) Ongoing oversight and guidance in marketing, plus updating on national retirement trends;

(c) Inclusion in the state's national advertising and public relations campaigns and travel show promotions, including a prominent feature on the cabinet's internet website; and

(d) Eligibility for state financial assistance for brochures, support material, and advertising.

(10) The Tourism Development Cabinet shall promulgate administrative regulations to implement the provisions of this section.

Section 2. Section 1 of this Act shall be implemented by the Tourism Development Cabinet to the extent that appropriations from the General Assembly are available for the purposes set forth in Section 1.

The Committee Amendment No. 1 to **HB 896** is as follows:

On page 1, between the title and the enacting clause, by inserting:

"WHEREAS, the General Assembly recognizes the contribution of older citizens toward making Kentucky an attractive and beneficial retirement location; and

WHEREAS, Kentucky will achieve significant benefits from the contribution of older residents who will both enrich our communities, and generate economic development advantages for our communities and the Commonwealth;" and

WHEREAS, retirees are good citizens. They give more than they take, volunteer their time, and bring a wealth of experience and knowledge from which all of our citizens can profit;"; and

On page 1, line 9, by deleting "*areas*", and inserting "*issues*" in lieu thereof; and

On page 1, line 11, by deleting "*, Kentucky's state*", and inserting an underscored colon in lieu thereof; and

By deleting lines 12 to 15 in their entirety, and inserting the following in lieu thereof:

(a) Kentucky's state and local tax structure;

(b) Housing opportunities and cost;

(c) Climate;

(d) Personal safety;

(e) Working opportunities;

(f) Health care services and other services along the continuum of services including but not limited to home and community based services;

(g) Transportation;

(h) Continuing education;

(i) Leisure living;

(j) Recreation;

(k) The performing arts;

(l) Festivals and events;

(m) Sports at all levels; and

(o) Other services and facilities that are necessary to enable persons to age in the community and in the least restrictive environment.; and

On page 2, line 8, following the comma, by inserting "***the Kentucky Commission on Military Affairs, the Department of Veterans' Affairs,***"; and

On page 2, line 19, by deleting the first "***Hospital***" and inserting "***Health Services***" in lieu thereof, and following the second "***hospital***", by inserting "***and emergency medical services***" in lieu thereof, and by deleting "***is***" and inserting "***are***" in lieu thereof; and

On page 2, line 27, by deleting "***and***", and, following "***safety***", by inserting "***, aging services, and a continuum of care including home and community based services, housing for the elderly, assisted living, personal care, and nursing care facilities***"; and

On page 4, line 12, by deleting "***make***" and inserting "***submit*** in lieu thereof; and

On page 4, line 13, following "***program***", by inserting "***and a long term plan outlining steps the community will undertake to maintain its desirability as a destination for retirees. The long range plan shall outline plans to correct any facility and service deficiencies identified in the retiree desirability assessment required by subsection (4)(f) of this section***"; and

On page 4, line 13, following "***commitment***", by inserting "***and long range plan***"; and

On page 4, line 22, by deleting "***and***"; and

On page 4, line 24, by deleting the underscored period and inserting an underscored semicolon; and

On page 4, between lines 24 and 25, by inserting:

(e) An annual evaluation and progress assessment on maintaining and improving the community's desirability as a home for retirees.; and

The Committee on State Government reported **HB 389,** with Committee Substitute attached thereto, **HB 512, HB 711, HB 720,** with Committee Substitute attached thereto, **HB 763,** with Committee Substitute attached thereto, **HB 822, HB 825,** with Committee Substitute attached thereto, **HB 826,** with Committee Substitute attached thereto, **HB 842,** with Committee Amendment attached thereto, **HB 856,** with Committee Amendment attached thereto, **HB 887, HB 901,** with Committee Substitute attached thereto, **HB 910,** and **HJR 113** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 389, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.370 is amended to read as follows:

(1) Except as provided in subsection (2) of KRS 21.410 and in subsection (2) of KRS 21.420, no benefits shall be payable under KRS 21.350 to 21.480 to any member or to his surviving spouse, unless he has completed at least eight (8) years of service, including service before becoming a member. No surviving spouse of a retired member shall be entitled to any benefits unless the person was the spouse of the member at the time he retired.

(2) A member who has qualified for benefits pursuant to this section may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems, and he may transfer to the Judicial Retirement Plan up to ten (10) years of service credit which he has earned in the Kentucky Legislators' Retirement Plan. If the member elects to transfer his service credit, the system or plan from which the transfer is made shall transfer to the judicial retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to the date of transfer at the actuarially assumed interest rate of the system or plan from which the transfer is made in effect at the time the

contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 21.400, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Judicial Retirement Plan, as determined by the actuary for the Judicial Retirement Plan. The member may pay by lump sum or by increments as set forth in KRS 6.515(2)(b), but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(3) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years for his period of service as a city police judge for a city within the Commonwealth of Kentucky, if the service was performed prior to the first Monday in January, 1978, and if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records of the city for which the service was performed. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(4) (a) 1. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan pursuant to subsection (1) of this section or KRS 21.375, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the member in question pursuant to KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question as provided in KRS 21.400. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 21.360(6).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 21.360(6).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(5) Any active member of the Judicial Retirement Plan who is vested in the Judicial Retirement Plan under subsection (1) of this section or KRS 21.375, shall receive service credit for a maximum of four (4) years each for his period of service as a Domestic Relations Commissioner, a Master Commissioner, or a District Court Trial Commissioner of the Commonwealth of Kentucky, if the service has not been credited to the member's account with any other public defined benefit plan, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The period of service to be purchased shall be certified to the board of trustees by the custodian of the records. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by lump sum or by increments as set forth in subsection (2)(b) of Section 2 of this Act, but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(6) Any member of the Judicial Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the member in question under KRS 21.400. Service credit awarded under this subsection shall be equivalent, for all purposes of the Judicial Retirement Plan, to other service credit earned in the plan. The member may pay by lump sum or by increments as set forth in subsection (2)(b) of Section 2 of this Act, but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 21.360(6).

(7) Any member of the Judicial Retirement Plan may purchase service credit under this section by transferring funds directly from a retirement plan maintained by his employer that is a qualified plan under Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan under the rules specified in Section 402(c) of the Internal Revenue Code, and the Judicial Retirement Plan shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402(c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member.

Section 2. KRS 6.515 is amended to read as follows:

(1) Service credit in the Legislators' Retirement Plan shall be acquired only by service as a legislator after July 1, 1980, while a member of the plan, by transfer of credit as provided in KRS 6.505, or by purchase of military service credit pursuant to subsection (2) of this section, or by transfer of credit as provided in subsection (6) ***or (7)*** of this section.

(2) (a) 1. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan, or his beneficiary acting in his place if the member dies prior to retirement, shall receive service credit for a maximum of four (4) years for his period of service in the Armed Forces of the United States, if his discharge therefrom is honorable and he has not been credited with the service by any other retirement system administered by the Commonwealth of Kentucky, by paying the retirement system thirty-five percent (35%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate which applies to the legislator in question pursuant to KRS 6.520. Service credit awarded pursuant to this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan.

2. Any active member of the Legislators' Retirement Plan who has at least five (5) years of service credit in the Legislators' Retirement Plan may purchase and receive service credit for one (1) month of service for each six (6) months of service in the reserves or the National Guard by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on the assumptions used in the most recent biennial evaluation. The service credit shall be awarded and the cost shall be determined in conformity with the rate that applies to the legislator in question pursuant to KRS 6.520. Service credit awarded as provided in this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The service in the military reserves or the National Guard shall be treated as service earned prior to participation in the plan. The purchase can be made by the member in a lump-sum payment or by installment payments, as set forth in paragraph (b) of this subsection. The payment shall not be picked up by the employer as provided in KRS 6.505(2).

(b) The beneficiary may purchase military service credit only at one (1) time by lump-sum payment for the amount of service he wishes to purchase, and the payment shall be made within thirty (30) days of the death of the active member. The member may purchase all of his military service credit at one (1) time, or in increments of no less than one (1) year, unless there is a fraction remaining after all full years have been paid for. Payment of the total or the increment may be made by lump-sum or by monthly installments through payroll deduction. If the member chooses to pay by installment, the cost of the service credit shall be computed in the same manner as for a lump-sum payment, which shall be the principal. Interest, at the annual actuarial rate in effect at the time each payment is made, shall be added to each monthly payment at the rate of one-twelfth (1/12) of the annual interest rate applied to the declining principal amount. Installment purchases shall be for no less than twelve (12) nor more than sixty (60) months. If the member leaves office before completing his installment payments, he may satisfy his contract by a lump-sum payment of the remaining principal amount, but no further installment payments shall be accepted thereafter. In this case, the member shall be credited with the military service credit for which he has paid, in years or months but no fraction less than a full month, and any payment remaining after credit for full months has been awarded shall be returned to the member.

(c) The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).

(d) No veteran shall be eligible to purchase military service credit under this section if he is receiving a military pension or is eligible for a military pension in the future, unless the military pension is for service primarily on inactive duty in a reserve component of the Armed Forces, or is a disability pension which does not exceed five hundred dollars ($500) monthly.

(3) If spouses both serve in the General Assembly, but not simultaneously, they may combine their service credit in the Legislators' Retirement Plan for all purposes of that plan into a single account, and may jointly designate to whom the service retirement allowance shall be paid. The designation shall not be changed once it is made. Assuming equal service credit, the benefits paid, pursuant to this section, to a legislator and his or her spouse who also served as a legislator shall not exceed the benefits that the same legislator and his or her spouse would receive if the spouse had not served as a legislator.

(4) In the event of divorce, rights to benefits shall be considered marital property subject to the provisions of KRS 403.190.

(5) A former legislator whose spouse currently serves in the General Assembly and who received a refund of contributions pursuant to KRS 21.460 may repurchase service credit which he or she previously had by repaying the amount refunded with interest at six percent (6%) per annum, and the service credit shall become part of the single account authorized by subsection (2) of this section.

(6) A member who has qualified for benefits pursuant to KRS 6.525(1) may transfer to the Legislators' Retirement Plan up to ten (10) years of service credit which he has earned in a retirement system administered by Kentucky Retirement Systems. If the member elects to transfer his service credit, the system from which the transfer is made shall transfer to the legislators' retirement fund an amount equal to the employee's and employer's contributions attributable to that credit, together with interest on the contributions from the date made to date of transfer at the actuarially assumed interest rate of the system from which the transfer is made in effect at the time the contributions were made, compounded annually at that same interest rate. The member shall be entitled to the transferred service credit, at the rate at which he qualifies pursuant to KRS 6.520, when he pays the total difference between the amount of the funds transferred and the cost of the credit to the Legislators' Retirement Plan, as determined by the actuary for the Legislators' Retirement Plan. The member may pay by lump sum or by increments, as provided for in subsection (2)(b) of this section, but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer pursuant to KRS 6.505(2).

(7) Any member of the Legislators' Retirement Plan, who has at least two hundred forty (240) months of service credit may purchase a combined maximum total of five (5) years of retirement service credit that is not otherwise purchasable, by paying the retirement system one hundred percent (100%) of the actuarial cost of the service as determined by the board of trustees, based on assumptions used in the most recent biennial evaluation. The member shall be entitled to the service credit at the rate at which he qualifies under KRS 6.520. Service credit awarded under this subsection shall be equivalent, for all purposes of the Legislators' Retirement Plan, to other service credit earned in the plan. The member may pay by lump sum or by increments as set forth in subsection (2)(b) of this section, but an installment contract shall not extend for more than sixty (60) months. The payments made under this section shall be considered accumulated contributions of the member and shall not be picked up by the employer under KRS 6.505(2).

(8) Any member of the Legislators' Retirement Plan may purchase service credit under this section by transferring funds directly from a retirement plan maintained by his employer that is a qualified plan under Section 401(a) of the Internal Revenue Code or by a rollover of funds from the plan under the rules specified in Section 402(c) of the Internal Revenue Code, and the Legislators' Retirement Plan shall accept the transfer or rollover to the extent permitted under the rules specified in Section 402(c) and Section 401(a)(31) of the Internal Revenue Code. The amount shall be credited to the individual member's contribution account and shall be considered accumulated contributions of the member.

Section 3. KRS 21.427 is amended to read as follows:

(1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance reimbursement plan as described in subsection (3) of this section.***

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%
48 to 119, inclusive	25%

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(b) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of judicial service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in all the state-administered retirement systems or plans.

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in all the state-administered retirement systems or plans and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. The state-administered retirement systems or plans shall pay to the Judicial Retirement Plan the applicable percentage of the plan's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement systems or plans divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

(3) ***The board shall establish a medical insurance reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance or for hospital and medical expenses at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums or medical expenses for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.***

(4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 4. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for

hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance reimbursement plan as described in subsection (5) of this section.***

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty-two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.

(5) ***The board shall establish a medical insurance reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance or for hospital and medical expenses at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums or medical expenses for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.***

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7)[~~(6)~~]Notwithstanding any other statute to the contrary, any member with at least forty eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 5. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. Board members who do not receive an annual salary from the State Treasury, in another capacity, shall receive ***an amount equal to the per diem compensation paid to members of the General Assembly***[~~seventy-five dollars ($75)~~] for each day they are in session. All members shall be reimbursed for their necessary expenses.

The Committee Substitute No. 1 to **HB 389** is as follows:

HB 389, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 21.427 is amended to read as follows:

(1) (a) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self-insured basis for a group hospital and medical insurance plan for recipients of a retirement allowance from the Judicial Retirement Plan, and their dependents. For recipients, or dependents, eligible for Medicare coverage, the board shall provide Medicare supplement hospital and medical insurance coverage. For recipients, or dependents, not eligible for Medicare coverage, the board shall provide hospital and medical insurance coverage comparable to that provided under the major state employees' group insurance, and the board may arrange for the recipients to be included in the major state employees group. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (3) of this section.***

(b) For the purpose of this section, the "dependent" of a recipient means the spouse or minor children, or both, of a recipient who is a living former member of the Judicial Retirement Plan, or the minor children of a deceased former member whose surviving spouse is the recipient.

(2) (a) Depending upon the number of months of service credit upon which the retirement allowance was based, and upon there having been at least forty-eight (48) months of judicial service, all or a portion of the premium required to provide hospital and medical benefits under this section shall be paid from the judicial retirement fund, as follows:

Months of Judicial Service	Percentage of Premium
240 or more	100%
180 to 239, inclusive	75%
120 to 179, inclusive	50%
48 to 119, inclusive	25%

The foregoing payments shall be made by the fund only if the recipient agrees to pay the remaining, if any, percentage of the premium by deduction from his retirement allowance or by another method equally insuring the payment by him.

(b) Notwithstanding any other statute to the contrary, any member with at least forty-eight (48) months of judicial service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in paragraph (a) of this subsection except that the number of months of service credit used in calculating the level of benefits shall be the sum of service credited to the member in all the state-administered retirement systems or plans.

1. Upon request of the member, the Judicial Retirement System shall compute the member's combined service in all the state-administered retirement systems or plans and calculate the portion of the member's premium to be paid by the Judicial Retirement Plan, according to the criteria established in paragraph (a) of this subsection. The state-administered retirement systems or plans shall pay to the Judicial Retirement Plan the applicable percentage of the plan's cost of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement systems or plans divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

2. A member who elects hospital and medical benefits under this subsection shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

(3) ***The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same***

Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.

(4) Premiums paid for hospital and medical insurance procured under this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the judicial retirement fund shall not constitute income to the recipient. No commission shall be paid for hospital and medical insurance procured under this section.

Section 2. KRS 6.577 is amended to read as follows:

(1) The board of trustees of the Judicial Form Retirement System shall arrange by appropriate contract or on a self insured basis to provide a group hospital and medical insurance plan for present and future recipients of a retirement allowance from the Legislators' Retirement Plan. The board may authorize present and future recipients of a retirement allowance from the Legislators' Retirement Plan who are under age sixty-five (65) to be included in the state employees group for hospital and medical insurance and shall provide benefits for recipients equal to those provided to state employees having the same Medicare hospital and medical insurance eligibility status. ***For recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky, the board shall provide a medical insurance premium reimbursement plan as described in subsection (5) of this section.***

(2) Each employer participating in the Legislators' Retirement Plan shall contribute to the plan the amount necessary to provide hospital and medical insurance as provided for under this section. The employer contribution rate shall be developed by appropriate actuarial method as a part of the determination of the total employer contribution rate to the Legislators' Retirement Plan.

(3) The premium required to provide hospital and medical benefits under this section shall be paid in full from the insurance fund established by KRS 6.575 for all recipients of a retirement allowance from the Legislators' Retirement Plan, if the recipient had two hundred forty (240) months or more of service upon retirement. If the recipient had less than two hundred forty (240) months of service, but at least one hundred thirty-two (132) months of service, fifty-five percent (55%) of the premium shall be paid from the insurance fund plus an additional five percent (5%) of the premium for each year of service beginning with the completion of twelve (12) years of service and continuing through the completion of nineteen (19) years of service. The recipient shall agree to pay by payroll deduction or another method the difference between what is paid from the insurance fund and one hundred percent (100%) of the premium. If the recipient had at least one hundred twenty (120) months of service, fifty percent (50%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining fifty percent (50%) by payroll deduction from his retirement allowance or by another method. If the recipient had less than one hundred twenty (120) months of service but at least forty-eight (48) months of service, twenty-five percent (25%) of the premium shall be paid from the insurance fund, if the recipient agrees to pay the remaining seventy-five percent (75%) by payroll deduction from his retirement allowance or by another method. "Months of service" as used in this section shall not include service added to determine disability benefits.

(4) The insurance fund shall pay the same percentage of the premium for the spouse and dependents of a recipient, or the beneficiary of the recipient, as the fund pays or paid for the member.

(5) ***The board shall establish a medical insurance premium reimbursement plan for recipients of a retirement allowance who are not eligible for the same level of hospital and medical benefits as recipients living in Kentucky having the same Medicare hospital and medical insurance eligibility status. An eligible recipient shall file proof of payment for hospital and medical insurance premiums at the retirement office. Reimbursement to eligible recipients shall be made on a quarterly basis. The recipient shall be eligible for reimbursement of substantiated medical insurance premiums for an amount not to exceed the total monthly contribution determined by the board of trustees. The plan shall not be made available if all recipients are eligible for the same level of coverage as recipients living in Kentucky.***

(6) Premiums paid for hospital and medical insurance coverage procured under authority of this section shall be exempt from any premium tax which might otherwise be required under KRS Chapter 136. The payment of premiums by the insurance fund shall not constitute taxable income to an insured recipient. No commission shall be paid for hospital and medical insurance procured under authority of this section.

(7)~~[(6)]~~Notwithstanding any other statute to the contrary, any member with at least forty eight (48) months of legislative service who is also eligible for benefits, or who is receiving benefits from any retirement plan or system administered by the Commonwealth shall be entitled to hospital and medical benefits as described in subsection (3) of this section, except that the number of months of service credit used in calculating the level of benefits shall be the sum of the service credited to the member in all the state-administered retirement systems or plans.

(a) Upon request of the member, the Legislators' Retirement Plan shall compute the member's combined service in all the state-administered retirement systems or plans, and calculate the portion of the member's premium to be paid by the Legislators' Retirement Plan, according to the criteria established in subsection (3) of this section. The state-administered retirement systems or plans shall pay to the Legislators' Retirement Plan the applicable percentage of the plan's costs of the retiree's hospital and medical premium which shall be equal to the percentage of the member's number of months of service in the applicable state-administered retirement system divided by his total combined service. The amounts paid by all the state-administered retirement systems or plans shall not be more than one hundred percent (100%) of the premium amount adopted by the respective boards of trustees.

(b) A member who elects hospital and medical benefits under this section shall lose any claim to insurance benefits under any of the other state-administered retirement systems or plans.

Section 3. KRS 21.530 is amended to read as follows:

For administrative purposes only, as hereinafter provided, the Legislators' Retirement Plan and the Judicial Retirement Plan shall be coordinated under the name, Judicial Form Retirement System, but each of the plans shall maintain its separate identity. A board of trustees of that system hereby is created, to consist of eight (8) members, three (3) of whom shall be appointed by the Supreme Court, two (2) by the Governor, one (1) by the President of the Senate, one (1) by the Speaker of the House of Representatives, and one (1) by the president and speaker jointly. The appointments by the Governor shall not be from among the members of either of the plans in the system, or from among the persons drawing benefits from either of those plans. The members of the board shall serve for terms of four (4) years, commencing as of July 1, 1980, and until their successors are chosen and have qualified; provided that if a member of the board who was a member of one (1) of the plans in the system when he was appointed ceases to be a member of that plan, a vacancy shall thereupon be deemed to exist in his position on the board; and provided further, that the members of the Judicial Retirement Board in office on July 1, 1980, shall serve for the remainder of the terms for which they were appointed, as the members of the board created by this section, in the positions appointable by the Supreme Court and the Governor. Vacancies shall be filled by the appointing authority for the unexpired term. The members shall annually elect a chairman. Board members who do not receive an annual salary from the State Treasury, in another capacity, shall receive ***an amount equal to the per diem compensation paid to members of the General Assembly***[~~seventy-five dollars ($75)~~] for each day they are in session. All members shall be reimbursed for their necessary expenses.

Section 4. KRS 61.510 is amended to read as follows:

As used in KRS 61.515 to 61.705, unless the context otherwise requires:

(1) "System" means the Kentucky Employees Retirement System created by KRS 61.515 to 61.705;

(2) "Board" means the board of trustees of the system as provided in KRS 61.645;

(3) "Department" means any state department or board or agency participating in the system in accordance with appropriate executive order, as provided in KRS 61.520. For purposes of KRS 61.515 to 61.705, the members, officers, and employees of the General Assembly and any other body, entity, or instrumentality designated by executive order by the Governor, shall be deemed to be a department, notwithstanding whether said body, entity, or instrumentality is an integral part of state government;

(4) "Examiner" means the medical examiners as provided in KRS 61.665;

(5) "Employee" means the members, officers, and employees of the General Assembly and every regular full-time, appointed or elective officer or employee of a participating department, including the Department of Military Affairs. The term does not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 61.515 to 61.705;

(6) "Employer" means a department or any authority of a department having the power to appoint or select an employee in the department, including the Senate and the House of Representatives, or any other entity, the employees of which are eligible for membership in the system pursuant to KRS 61.525;

(7) "State" means the Commonwealth of Kentucky;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1956, except that for members, officers, and employees of the General Assembly this date shall be January 1, 1960, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7) and 61.555, and each member, officer, and employee of the General Assembly shall be credited with a month of current service for each month he occupies the position during a legislative biennium subsequent to January 1, 1960;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1956, for which creditable compensation was paid; except that for members, officers, and employees of the General Assembly, this date shall be January 1, 1960. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work; provided, however, that each member, officer, and employee of the General Assembly shall be credited with a month of prior service for each month he occupied the position during a legislative biennium prior to January 1, 1960. Twelve (12) months of current service in the system are required to validate prior service; except that for an employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems whose prior service was in a position in an office of a

Commonwealth's attorney the prior service may be validated by at least twelve (12) months of current service in the Kentucky Employees Retirement System or by at least fifteen (15) years of current service in the County Employees Retirement System. An employee participating in any of the three (3) systems administered by the Kentucky Retirement Systems who wishes to validate prior service in a position in an office of a Commonwealth's attorney with fifteen (15) years of County Employees Retirement System service shall notify the Kentucky Retirement Systems of his or her eligibility for the service prior to January 1, 1999;

(12) "Accumulated contributions" at any time means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), together with interest credited on such amounts and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, tips to the extent the tips are reported for income tax purposes, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4), except that for members of the General Assembly, it shall mean an assumed salary of twenty-seven thousand five hundred dollars ($27,500) per annum which shall include per diem and expense payments authorized by KRS Chapter 6. The creditable compensation of members, officers, and employees of the General Assembly shall be calculated as having been received in equal amounts for each month of the biennium. In cases where compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts which are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" of a member means***:***

(a) The creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12), except that for members of the General Assembly who retire pursuant to KRS 61.600, or who die in office, "final compensation" shall be twenty-seven thousand five hundred dollars ($27,500). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; ***or***

(b) For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between July 15, 2000, and July 15, 2001, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least eighty-five (85), final compensation shall mean the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, including employee contributions picked up after August 1, 1982, pursuant to KRS 61.560(4). In the case of members of the General Assembly, the "final rate of pay" shall be the creditable compensation. The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2,080) hours for eight (8) hour workdays, nineteen hundred fifty (1,950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables that are from time to time adopted by the board, except in cases of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth birthday of a member, unless otherwise provided in KRS 61.515 to 61.705;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Officers and employees of the General Assembly" means the occupants of those positions enumerated in KRS 6.150 and the assistants if employed by the General Assembly for at least six (6) legislative bienniums;

(21) "Regular full-time positions," as used in subsection (5) of this section, shall mean all positions that average one hundred (100) or more hours per month determined by using the number of months actually worked within a calendar or fiscal year, including all positions except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and which may recur regularly from year to year, the period of time shall not exceed nine (9) months;

(b) Emergency positions which are positions which do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary positions which are positions of employment with a participating department for a period of time not to exceed nine (9) months; and

(d) Part-time positions which are positions which may be permanent in duration, but which require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty;

(22) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434;

(23) "Parted employer" means a department, portion of a department, board, or agency, such as Outwood Hospital and School, which previously participated in the system, but due to lease or other contractual arrangement is now operated by a publicly held corporation or other similar organization, and therefore is no longer participating in the system;

(24) "Retired member" means any former member receiving a retirement allowance or any former member who has filed the necessary documents for retirement benefits and is no longer contributing to the retirement system;

(25) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(26) "Beneficiary" means the person or persons or estate or trust or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, "beneficiary" does not mean an estate, trust, or trustee;

(27) "Recipient" means the retired member or the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(28) "Level-percentage-of-payroll amortization method" means a method of determining the annual amortization payment on the unfunded past service liability as expressed as a percentage of payroll over a set period of years. Under this method, the percentage of payroll shall be projected to remain constant for all years remaining in the set period and the unfunded past service liability shall be projected to be fully amortized at the conclusion of the set period;

(29) "Increment" means twelve (12) months of service credit which are purchased. The twelve (12) months need not be consecutive. The final increment may be less than twelve (12) months;

(30) "Person" means a natural person;

(31) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(32) "Last day of paid employment" means the last date employer and employee contributions are required to be reported in accordance with KRS 16.543, 61.543, or 78.615 to the retirement office in order for the employee to receive current service credit for the month;

(33) "Objective medical evidence" means medical histories; reports of examinations or treatments; medical signs which are anatomical, physiological, or psychological abnormalities that can be observed; psychiatric signs which are medically demonstrable phenomena indicating specific abnormalities of behavior, affect, thought, memory, orientation, or contact with reality; or laboratory findings which are anatomical, physiological, or psychological phenomena that can be shown by medically acceptable laboratory diagnostic techniques, including, but not limited to, chemical tests, electrocardiograms, electroencephalograms, X-rays, and psychological tests; and

(34) "Participating" means an employee is currently earning service credit in the system as provided in KRS 61.543.

Section 5. KRS 78.510 is amended to read as follows:

As used in KRS 78.520 to 78.852, unless the context otherwise requires:

(1) "System" means the County Employees Retirement System;

(2) "Board" means the board of trustees of the system as provided in KRS 78.780;

(3) "County" means any county, or nonprofit organization created and governed by a county, counties, or elected county officers, sheriff and his employees, county clerk and his employees, circuit clerk and his deputies, former circuit clerks or former circuit clerk deputies, or political subdivision or instrumentality, including school boards, charter county government, or urban-county government participating in the system by order appropriate to its governmental structure, as

provided in KRS 78.530, and if the board is willing to accept the agency, organization, or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(4) "School board" means any board of education participating in the system by order appropriate to its governmental structure, as provided in KRS 78.530, and if the board is willing to accept the agency or corporation, the board being hereby granted the authority to determine the eligibility of the agency to participate;

(5) "Examiner" means the medical examiners as provided in KRS 61.665;

(6) "Employee" means every regular full-time appointed or elective officer or employee of a participating county and the coroner of a participating county, whether or not he qualifies as a regular full-time officer. The term shall not include persons engaged as independent contractors, seasonal, emergency, temporary, and part-time workers. In case of any doubt, the board shall determine if a person is an employee within the meaning of KRS 78.520 to 78.852;

(7) "Employer" means a county, as defined in subsection (3) of this section, the elected officials of a county, or any authority of the county having the power to appoint or elect an employee to office or employment in the county;

(8) "Member" means any employee who is included in the membership of the system or any former employee whose membership has not been terminated under KRS 61.535;

(9) "Service" means the total of current service and prior service as defined in this section;

(10) "Current service" means the number of years and months of employment as an employee, on and after July 1, 1958, for which creditable compensation is paid and employee contributions deducted, except as otherwise provided in KRS 61.552(7), 61.555, and 78.530;

(11) "Prior service" means the number of years and completed months, expressed as a fraction of a year, of employment as an employee, prior to July 1, 1958, for which creditable compensation was paid. An employee shall be credited with one (1) month of prior service only in those months he received compensation for at least one hundred (100) hours of work. Twelve (12) months of current service in the system shall be required to validate prior service;

(12) "Accumulated contributions" means the sum of all amounts deducted from the compensation of a member and credited to his individual account in the members' contribution account, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4), together with interest credited on the amounts, and any other amounts the member shall have contributed thereto, including interest credited thereon;

(13) "Creditable compensation" means all salary, wages, and fees paid to the employee as a result of services performed for the employer which are includable on the member's federal form W-2 wage and tax statement, including employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). If compensation includes maintenance and other perquisites, the board shall fix the value of that part of the compensation not paid in money. Creditable compensation shall also include amounts that are not includable in the member's gross income by virtue of the member having taken a voluntary salary reduction provided for under applicable provisions of the Internal Revenue Code;

(14) "Final compensation" means:

(a) For a member who is employed in a nonhazardous position, as provided in KRS 61.592, the creditable compensation of the member during the five (5) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that five (5) year period multiplied by twelve (12). The five (5) years may be fractional and need not be consecutive. If the number of months of service credit during the five (5) year period is less than forty-eight (48), one (1) or more additional fiscal years shall be used; *or*

(b) ***For a member who is not employed in a hazardous position, as provided in KRS 61.592, whose effective retirement date is between July 15, 2000, and July 15, 2001, and whose total service credit is at least twenty-five (25) years and whose age and years of service total at least eighty-five (85), final compensation shall mean the creditable compensation of the member during the three (3) fiscal years the member was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-four (24), one (1) or more additional fiscal years shall be used. Notwithstanding the provisions of KRS 61.565, the funding for this paragraph shall be provided from existing funds of the retirement allowance account; or***

(c) For a member who is employed in a hazardous position, as provided in KRS 61.592, the creditable compensation of the member during the three (3) fiscal years he was paid at the highest average monthly rate divided by the number of months of service credit during that three (3) year period multiplied by twelve (12). The three (3) years may be fractional and need not be consecutive. If the number of months of service credit during the three (3) year period is less than twenty-eight (28), one (1) or more additional fiscal years shall be used;

(15) "Final rate of pay" means the actual rate upon which earnings of an employee were calculated during the twelve (12) month period immediately preceding the member's effective retirement date, and shall include employee contributions picked up after August 1, 1982, pursuant to KRS 78.610(4). The rate shall be certified to the system by the employer and the following equivalents shall be used to convert the rate to an annual rate: two thousand eighty (2080) hours for eight (8)

hour workdays, nineteen hundred fifty (1950) hours for seven and one-half (7-1/2) hour workdays, two hundred sixty (260) days, fifty-two (52) weeks, twelve (12) months, one (1) year;

(16) "Retirement allowance" means the retirement payments to which a member is entitled;

(17) "Actuarial equivalent" means a benefit of equal value when computed upon the basis of the actuarial tables as are from time to time adopted by the board, except in case of disability retirement, the options authorized by KRS 61.635 shall be computed by adding ten (10) years to the age of the member. No disability retirement option shall be less than the same option computed under early retirement;

(18) "Normal retirement date" means the sixty-fifth (65th) birthday of a member unless otherwise provided in KRS 78.520 to 78.852;

(19) "Fiscal year" of the system means the twelve (12) months from July 1 through the following June 30, which shall also be the plan year;

(20) "Agency reporting official" means the person designated by the participating agency who shall be responsible for forwarding all employer and employee contributions and a record of the contributions to the system and for performing other administrative duties pursuant to the provisions of KRS 78.520 to 78.852;

(21) "Regular full-time positions," as used in subsection (6) of this section, shall mean all positions that average one hundred (100) or more hours per month, determined by using the number of hours actually worked in a calendar or fiscal year, or eighty (80) or more hours per month in the case of noncertified employees of school boards, determined by using the number of hours actually worked in a calendar or school year, unless otherwise specified, except:

(a) Seasonal positions, which although temporary in duration, are positions which coincide in duration with a particular season or seasons of the year and that may recur regularly from year to year, in which case the period of time shall not exceed six (6) months in any event;

(b) Emergency positions that are positions that do not exceed thirty (30) working days and are nonrenewable;

(c) Temporary, also referred to as probationary, positions that are positions of employment with a participating agency for a period of time not to exceed twelve (12) months and not renewable; or

(d) Part-time positions that are positions that may be permanent in duration, but that require less than a calendar or fiscal year average of one hundred (100) hours of work per month, determined by using the number of months actually worked within a calendar or fiscal year, in the performance of duty, except in case of noncertified employees of school boards, the school term average shall be eighty (80) hours of work per month, determined by using the number of months actually worked in a calendar or school year, in the performance of duty;

(22) "Alternate participation plan" means a method of participation in the system as provided for by KRS 78.530(3);

(23) "Retired member" means any former member receiving a retirement allowance or any former member who has on file at the retirement office the necessary documents for retirement benefits and is no longer contributing to the system;

(24) "Current rate of pay" means the member's actual hourly, daily, weekly, biweekly, monthly, or yearly rate of pay converted to an annual rate as defined in final rate of pay. The rate shall be certified by the employer;

(25) "Beneficiary" means the person, persons, estate, trust, or trustee designated by the member in accordance with KRS 61.542 or 61.705 to receive any available benefits in the event of the member's death. As used in KRS 61.702, beneficiary shall not mean an estate, trust, or trustee;

(26) "Recipient" means the retired member, the person or persons designated as beneficiary by the member and drawing a retirement allowance as a result of the member's death, or a dependent child drawing a retirement allowance. An alternate payee of a qualified domestic relations order shall be considered a recipient only for purposes of KRS 61.691;

(27) "Person" means a natural person;

(28) "School term or year" means the twelve (12) months from July 1 through the following June 30;

(29) "Retirement office" means the Kentucky Retirement Systems office building in Frankfort;

(30) "Delayed contribution payment" means an amount paid by an employee for current service obtained under KRS 61.552. The amount shall be determined using the same formula adopted by the board for purchase of service under KRS 61.552(9), except the employee shall pay a single payment of fifty percent (50%) of the total cost of the service with no cost to the employer, and the payment shall not be picked up by the employer. A delayed contribution payment shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member. In determining payments under this subsection, the formula found in this subsection shall prevail over the one found in KRS 212.434; and

(31) "Participating" means an employee is currently earning service credit in the system as provided in KRS 78.615.

HB 512, AN ACT relating to the executive branch ethics code.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 11A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Business" means any corporation, limited liability corporation, partnership, limited liability partnership, sole proprietorship, firm, enterprise, franchise, association, organization, self-employed individual, holding company, joint stock company, receivership, trust, or any legal entity through which business is conducted for profit;

(2) "Commission" means the Executive Branch Ethics Commission;

(3) "Compensation" means any money, thing of value, or economic benefit conferred on, or received by, any person in return for services rendered, or to be rendered, by himself or another;

(4) "Family" means spouse and children, as well as a person who is related to a public servant as any of the following, whether by blood or adoption: parent, brother, sister, grandparent, grandchild, father-in-law, mother-in-law, brother-in-law, sister-in-law, son-in-law, daughter-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, half sister;

(5) "Gift" means a payment, loan, subscription, advance, deposit of money, services, or anything of value, unless consideration of equal or greater value is received; ***"gift" does not include gifts from family members, campaign contributions, or door prizes available to the public;***

(6) "Income" means any money or thing of value received or to be received as a claim on future services, whether in the form of a fee, salary, expense allowance, forbearance, forgiveness, interest, dividend, royalty, rent, capital gain, or any other form of compensation or any combination thereof;

(7) "Officer" means all major management personnel in the executive branch of state government, including the secretary of the cabinet, the Governor's chief executive officers, cabinet secretaries, deputy cabinet secretaries, general counsels, commissioners, deputy commissioners, principal assistants, division directors,~~[members and full-time chief administrative officers of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Worker's Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Council on Postsecondary Education,]~~ and any person who holds a personal service contract to perform on a full-time basis for a period of time not less than six (6) months a function of any position listed in this subsection;

(8) "Official duty" means any responsibility imposed on a public servant by virtue of his position in the state service;

(9) "Public servant" means:

  (a) The Governor;

  (b) The Lieutenant Governor;

  (c) The Secretary of State;

  (d) The Attorney General;

  (e) The Treasurer;

  (f) The Commissioner of Agriculture;

  (g) The Auditor of Public Accounts;

  (h) Each Railroad Commissioner; and

  (i) All employees in the executive branch including officers as defined in subsection (7) of this section and merit employees;

(10) "Agency" means every state office, cabinet, department, board, commission, public corporation, or authority in the executive branch of state government. A public servant is employed by the agency by which his appointing authority is employed, unless his agency is attached to the appointing authority's agency for administrative purposes only, or unless the agency's characteristics are of a separate independent nature distinct from the appointing authority and it is considered an agency on its own, such as an independent department;

(11) "Lobbyist" means any person employed as a legislative agent as defined in KRS 6.611(22) or any person employed as an executive agency lobbyist as defined in KRS 11A.201(8);

(12) "Lobbyist's principal" means the entity in whose behalf the lobbyist promotes, opposes, or acts;

(13) "Candidate" means those persons who have officially filed candidacy papers or who have been nominated by their political party pursuant to KRS 118.105, 118.115, 118.325, or 118.760 for any of the offices enumerated in subsections (9)(a) to (h) of this section;

(14) "Does business with" or "doing business with" means contracting, entering into an agreement, leasing, or otherwise exchanging services or goods with a state agency in return for payment by the state, including accepting a grant, but not

including accepting a state entitlement fund disbursement;

(15) "Public agency" means any governmental entity;

(16) "Appointing authority" means the agency head or any person whom he has authorized by law to act on behalf of the agency with respect to employee appointments;~~[and]~~

(17) "Represent" means to attend an agency proceeding, write a letter, or communicate with an employee of an agency on behalf of someone else***; and***

(18) "Directly involved" means to work on personally or to supervise someone who worked on personally.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11A IS CREATED TO READ AS FOLLOWS:

(1) No member of any board, commission, authority, council, or committee in the executive branch of state government shall himself or through a business in which he owns or controls an interest of more than five percent (5%), or by any other person for his use or benefit or on his account, undertake, execute, hold, or enjoy, in whole or in part, any contract, agreement, lease, sale, or purchase made, entered into, awarded, or granted by the board, commission, authority, council, or committee of which he is a member. This prohibition shall not apply to purchases that are available on the same terms to the general public or that are made at public auction.

(2) A member of a board, commission, authority, council, or committee in the executive branch of state government shall disclose to the other members of the board, commission, authority, council, or committee of which he is a member, any direct or indirect interest in any undertaking that puts his personal interest in conflict with that of the agency. This disclosure shall be made in writing or shall be recorded in the minutes of a formal meeting. A member who is required to publicly disclose a direct or indirect interest shall abstain from all decisions concerning his interest, if the decision would affect him as a member of a business, profession, occupation, or group in a manner different from other members of the business, profession, occupation, or group.

(3) Members of a board, commission, authority, council, or committee in the executive branch of state government shall be subject to KRS 11A.045 pertaining to the acceptance of gifts by public servants.

(4) Members of the Parole Board, Board of Tax Appeals, Board of Claims, Kentucky Retirement Systems board of trustees, Public Service Commission, Workers' Compensation Board and its administrative law judges, the Occupational Safety and Health Review Commission, the Kentucky Board of Education, the State Board for Adult and Technical Education, the Racing Commission, and the Council on Postsecondary Education shall file a statement of financial disclosure under KRS 11A.050.

Section 3. KRS 11A.990 is amended to read as follows:

(1) Any person who violates KRS 11A.040 shall be guilty of a Class D felony. In addition:

(a) The judgment of conviction for a violation of KRS 11A.040(2) shall recite that the offender is disqualified to hold office thereafter; and

(b) Any person who violates KRS 11A.040(1) to (5) shall be judged to have forfeited any employment, or constitutional or statutory office he holds, provisions of KRS Chapter 18A to the contrary notwithstanding.

(2) Any officer, public servant,~~[or]~~ candidate***, or any member of a board or commission listed in subsection (4) of Section 2 of this Act*** required to file a statement of financial disclosure ***under***~~[pursuant to]~~ KRS 11A.050 who does not file the statement by a date specified in that section shall have his salary withheld from the first day of noncompliance until he shall have completed the action required by law. The amount withheld shall be deducted from his overall pay and allowances and shall~~[not]~~ be recoverable ***upon the filing of the statement of financial disclosure***~~[pursuant to Section 235 of the Constitution of Kentucky]~~. The commission may grant a reasonable extension of time for filing a statement of financial disclosure for good cause shown.

(3) Any person who maliciously files with the commission a false charge of misconduct on the part of any public servant or other person shall be fined not to exceed five thousand dollars ($5,000), or imprisoned in a county jail for a term not to exceed one (1) year, or both.

(4) Prosecution for violation of any provision of KRS 11A.040 shall not be commenced after four (4) years have elapsed from the date of the violation.

Any executive agency lobbyist, employer, or real party in interest who violates any provision in KRS 11A.206 shall for the first violation be subject to a civil penalty not to exceed five thousand dollars ($5,000). For the second and each subsequent violation, he shall be guilty of a Class D felony.

(5) Any executive agency lobbyist, employer, or real party in interest who fails to file the initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216, or who fails to remedy a deficiency in any filing in a timely manner, may be fined by the commission an amount not to exceed one hundred dollars ($100) per day, up to a maximum total fine of one thousand dollars ($1,000).

(6) Any executive agency lobbyist, employer, or real party in interest who intentionally fails to register, or who intentionally files an initial registration statement or updated registration statement required by KRS 11A.211 or 11A.216 which he

knows to contain false information or to omit required information shall be guilty of a Class D felony.

(7) An executive agency lobbyist, employer, or real party in interest who files a false statement of expenditures or details of a financial transaction under KRS 11A.221 or 11A.226 is liable in a civil action to any official or employee who sustains damage as a result of the filing or publication of the statement.

(8) Violation of KRS 11A.236 is a Class D felony.

HB 711, AN ACT relating to compulsive gambling.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) There is created in the State Treasury a trust and agency account to be known as the "Compulsive Gamblers Assistance Fund." The fund shall be administered by the director of the Division of Substance Abuse of the Department for Mental Health and Mental Retardation Services for the provision of treatment of compulsive gamblers. The director shall spend not more than fifty thousand dollars ($50,000) per fiscal year to administer the fund. Except for administrative expenses, all moneys in the fund shall be used exclusively for the purposes of:

(a) Providing assistance to agencies, groups, organizations, and persons that provide education, assistance, and counseling to persons and families experiencing difficulty as a result of problem or pathological gambling;

(b) Promoting the awareness of gamblers assistance programs; and

(c) Paying the costs and expenses with regard to the treatment of compulsive gambling.

(2) Neither the director nor the employees of the Division of Substance Abuse shall provide any direct services to problem or pathological gamblers or their families.

SECTION 2. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

(1) The compulsive gamblers assistance fund shall be funded in the following proportions:

(a) Sixty percent (60%) from the gross revenues of the state lottery under subsection (1) of Section 5 of this Act, not to exceed:

1. One hundred eighty thousand dollars ($180,000) for each of fiscal years 2000-2001 and 2001-2002;

2. Five hundred forty thousand dollars ($540,000) for each of fiscal years 2002-2002 and 2003-2002; and

3. One million eighty thousand dollars ($1,080,000) for fiscal year 2004-2005, and each fiscal year thereafter.

(b) Twenty percent (20%) from the total amount wagered subject to the excise taxes imposed in subsections (1), (2), and (3) of Section 4 of this Act, not to exceed:

1. Sixty thousand dollars ($60,000) for each of fiscal years 2000-2001 and 2001-2002;

2. One hundred eighty thousand dollars ($180,000) for each of fiscal years 2002-2002 and 2003-2002; and

3. Three hundred sixty thousand dollars ($360,000) for fiscal year 2004-2005, and each fiscal year thereafter.

(c) Twenty percent (20%) from the gross receipts derived from all charitable gaming under subsections (1) and (2) of Section 6 of this Act, not to exceed:

1. Sixty thousand dollars ($60,000) for each of fiscal years 2000-2001 and 2001-2002;

2. One hundred eighty thousand dollars ($180,000) for each of fiscal years 2002-2002 and 2003-2002; and

3. Three hundred sixty thousand dollars ($360,000) for fiscal year 2004-2005, and each fiscal year thereafter.

(2) Moneys from the compulsive gamblers assistance fund shall be expended as follows:

(a) During each of fiscal years 2000-2001 and 2001-2002, funds shall be spent exclusively for compulsive gambling education and awareness;

(b) During fiscal year 2002-2002 and each fiscal year thereafter, funds may be used to fund the certification of compulsive gambling counselors, in addition to the compulsive gambling education and awareness activities required in paragraph (a) of this subsection; and

(c) During fiscal year 2004-2005 and each fiscal year thereafter, treatment programs for compulsive gamblers may be funded, in addition to the compulsive gambling education and awareness activities required in paragraph (a) of this subsection.

(3) Any moneys not expended during the fiscal year in which the moneys were deposited into the compulsive gamblers assistance fund shall not lapse but shall be carried forward into the next fiscal year.

SECTION 3. A NEW SECTION OF KRS CHAPTER 222 IS CREATED TO READ AS FOLLOWS:

The director shall be responsible for:

(1) Establishing standards for the types of agencies, groups, organizations, and persons that will be eligible to receive funding from the compulsive gamblers assistance fund;

(2) Establishing standards for the types of activities that will be eligible for funding;

(3) Developing standards for the appropriate documentation of past performance of agencies, groups, organizations, and persons and the activities that they have conducted;

(4) Requesting and receiving applications for funding;

(5) Evaluating the requests submitted from the various agencies, groups, organizations, and persons that are seeking funding from the compulsive gamblers assistance fund to provide the services under subsections (1)(a) and (b) of Section 1 of this Act and recommending funding for those that have demonstrated their capability to efficiently and effectively provide the necessary services;

(6) Certifying to the Department for Mental Health and Mental Retardation Services appropriate vouchers for the disbursement of funds from the compulsive gamblers assistance fund to those agencies, groups, organizations, and persons for providing services to problem or pathological gamblers and their families in accordance with subsection (5) of this section; and

(7) Requesting and receiving from the recipients of funding appropriate documentation of the manner in which funds from the compulsive gamblers assistance fund have been expended, including audits.

Section 4. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

  (a) At a receiving track;

  (b) At a simulcast facility;

  (c) On telephone account wagering; or

  (d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the live racing handle for thoroughbred racing and one percent (1%) of the live handle for harness racing.

(2) An excise tax is imposed on:

  (a) All licensed tracks conducting telephone account wagering;

  (b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

  (c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year.

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

  (a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

  (b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to

the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

(7) A percentage of the total amount wagered shall be deducted from the excise taxes imposed in subsections (1), (2), and (3) of this section and shall be deposited into the compulsive gamblers assistance fund created in Section 1 of this Act, in the following amounts:

- ***(a) One-hundredth of one percent (0.01%) during fiscal years 2000-2001 and 2001-2002;***
- ***(b) Three-hundredths of one percent (0.03%) during fiscal years 2002-2002 and 2003-2002; and***
- ***(c) Six-hundredths of one percent (0.06%) during fiscal year 2004-2005, and each fiscal year thereafter.***

Section 5. KRS 154A.130 is amended to read as follows:

(1) All money received by the corporation from the sale of lottery tickets and all other sources shall be deposited into a corporate operating account. The corporation is authorized to use all money in the corporate operating account for the purposes of paying prizes***, funding the compulsive gamblers assistance fund, created in Section 1 of this Act, under subsection (2) of this section,*** and the necessary expenses of the corporation and dividends to the state. The corporation shall allocate the amount to be paid by the corporation to prize winners. The amount in the corporate operating account which the corporation anticipates will be available for the payment of prizes on an annuity basis may be invested in direct United States Treasury obligations. These instruments may be in varying maturities with respect to payment of annuities and may be in book-entry form. Monthly, no later than the last business day of the succeeding month, the corporation shall transfer to a lottery trust fund the amount of net revenues which the corporation determines are surplus to its needs. These funds shall be held in trust until 1990 at which time the General Assembly shall determine the manner in which the funds will be allocated and appropriated. The net revenues shall be determined by deducting from gross revenues the payment costs incurred in the operation and administration of the lottery, including the expenses of the corporation and the costs resulting from any contract or contracts entered into for promotional, advertising, or operational services or for the purchase or lease of lottery equipment and materials, fixed capital outlays,~~[and]~~ the payment of prizes to the holders of winning tickets***, and funding the compulsive gamblers assistance fund***. After the start-up costs are paid, it is the intent of the Legislature that it shall be the goal of the corporation to transfer each year thirty-five percent (35%) of gross revenues to the general fund for the purposes stated above.

(2) ***A percentage of the gross revenues of the state lottery that are deposited into the corporate operating account under subsection (1) of this section shall be subsequently deposited into the compulsive gamblers assistance fund created in Section 1 of this Act, in the following amounts:***

- ***(a) Three-hundredths of one percent (0.03%) during fiscal years 2000-2001 and 2001-2002;***
- ***(b) Nine-hundredths of one percent (0.09%) during fiscal years 2002-2003 and 2003-2004; and***
- ***(c) Nineteen-hundredths of one percent (0.19%) during fiscal year 2004-2005, and each fiscal year thereafter.***

(3) A Kentucky lottery trust account is established in the State Treasury. Net lottery revenues shall be credited to this restricted account as provided in subsection (1) of this section. Moneys credited to the Kentucky lottery trust account shall be invested by the state in accordance with state investment practices and all earnings from the investments shall accrue to this account. No moneys shall be allotted or expended from this account unless pursuant to an appropriation by the General Assembly, except that moneys as are needed shall be transferred to the general fund pursuant to the provisions of the Acts of the Extraordinary Session of the 1988 General Assembly. Moneys in the Kentucky lottery trust account shall not lapse at the close of the state fiscal year.

(4)~~[(3)]~~Beginning in fiscal year 1999-2000, and each fiscal year thereafter, three million dollars ($3,000,000) from net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

- (a) To the Collaborative Center for Literacy Development, one million two hundred thousand dollars ($1,200,000) in fiscal year 1999-2000 and each fiscal year thereafter; and
- (b) To the early reading incentive fund, one million eight hundred thousand dollars ($1,800,000) in fiscal year 1999-2000 and each fiscal year thereafter.

(5)~~[(4)]~~After the allocation of three million dollars ($3,000,000) to literacy development, as provided in subsection *(4)*~~[(3)]~~ of this

section, net lottery revenues from the sale of lottery tickets shall be credited from the general fund as follows:

(a) To the Wallace G. Wilkinson Commonwealth merit scholarship trust fund established in ***KRS 164.7877***~~[Section 3 of this Act]~~:

1. Seven million dollars ($7,000,000) in fiscal year 1999-2000;
2. Fifteen percent (15%) in fiscal year 2000-2001;
3. Twenty-five percent (25%) in fiscal year 2001-2002;
4. Thirty-two percent (32%) in fiscal year 2002-2003;
5. Forty percent (40%) in fiscal year 2003-2004; and
6. Forty-five percent (45%) in fiscal year 2004-2005 and each fiscal year thereafter; and

(b) To the College Access Program and the Kentucky Tuition Grants Program established in KRS Chapter 164:

1. Fourteen million dollars ($14,000,000) in fiscal year 1998-1999;
2. Fifteen million dollars ($15,000,000) in fiscal year 1999-2000;
3. Thirty-two percent (32%) in fiscal year 2000-2001 through fiscal year 2002-2003;
4. Forty percent (40%) in fiscal year 2003-2004;
5. Forty-five percent (45%) in fiscal year 2004-2005; and
6. Fifty-five percent (55%) of net lottery revenues in fiscal year 2005-2006 and each fiscal year thereafter.

(6)~~[(5)]~~The Auditor of Public Accounts shall be responsible for a financial postaudit of the books and records of the corporation. The postaudit shall be conducted in accordance with generally accepted accounting principles, shall be paid for by the corporation, and shall be completed within ninety (90) days of the close of the corporation's fiscal year. The Auditor of Public Accounts shall contract with an independent, certified public accountant who meets the qualifications existing to do business within the Commonwealth of Kentucky to perform the corporation postaudit. The Auditor of Public Accounts shall remain responsible for the annual postaudit and the corporation shall pay all audit costs. The Auditor of Public Accounts may at any time conduct additional audits, including performance audits, of the corporation as he deems necessary or desirable. Contracts shall be entered into for audit services for a period not to exceed five (5) years and the same firm shall not receive two (2) consecutive audit contracts. All audits shall be filed with the Governor, the President of the Senate, and the Speaker of the House of Representatives. The corporation shall reimburse the Auditor of Public Accounts for the reasonable costs of any audits performed by him. The corporation shall cooperate with the Auditor of Public Accounts by giving employees designated by any of them access to facilities of the corporation for the purpose of efficient compliance with their respective responsibilities. With respect to any reimbursement that the corporation is required to pay to any agency, the corporation shall enter into an agreement with that agency under which the corporation shall pay to the agency an amount reasonably anticipated to cover the reimbursable expenses in advance of the expenses being incurred.

(7)~~[(6)]~~By no later than December 31 of each year, in an advertisement at least one-fourth (1/4) of a page in size, the Kentucky Lottery Corporation shall publish the following information in every general-circulation daily newspaper published in Kentucky:

(a) The statements of revenue, expenses, and changes in retained earnings as shown in the most recent annual audit report. It shall be explained that the transfer of dividends is the amount of lottery earnings transferred to the general fund;

(b) A statement identifying the auditing firm;

(c) A telephone number which citizens may call to obtain a complete copy of the annual audit report; and

(d) The name of the president/chief executive officer of the Kentucky Lottery Corporation and a complete list of board members.

The Kentucky Lottery Corporation shall pay for the cost of the advertisement.

Section 6. KRS 238.570 is amended to read as follows:

(1) A fee is imposed on charitable gaming in the amount of four-tenths of one percent (0.4%) of gross receipts derived from all charitable gaming conducted by charitable organizations required to be licensed in the Commonwealth of Kentucky. Each licensed charitable organization shall remit to the division all moneys due on a quarterly basis.

(2) The charitable gaming regulatory account is hereby created as a revolving account within the agency revenue fund and under the control of the Justice Cabinet. All revenues generated from the fee levied in subsection (1) of this section from license fees and from administrative fines imposed by the division shall be deposited in this account. Moneys in this account shall be expended by the division only in the administration and enforcement of provisions of this chapter ***and funding the compulsive gamblers assistance fund created in Section 1 of this Act in accordance with subsection (5) of this section***. No later than July of each odd-numbered year, the division shall assess the amount of funds raised by all fees levied in this chapter and shall make recommendations to the Legislative Research Commission concerning legislative

amendments to adjust fee rates as indicated by the assessment.

(3) If the provision of subsection (1) of this section that imposes a fee of four-tenths of one percent (0.4%) of all gross receipts derived from all charitable gaming conducted by licensed charitable organizations is declared unconstitutional in a final decision of the highest appellate court of the Commonwealth of Kentucky, for the privilege of conducting charitable gaming in the Commonwealth of Kentucky, there is hereby levied upon the use, sale, rental, lease, or distribution by sale or by gift of charitable gaming supplies and equipment a fee of ten percent (10%) of the value of all supplies and equipment used, sold, rented, leased, or otherwise distributed by a licensed distributor to any licensed charitable organization in the Commonwealth of Kentucky.

(a) Every distributor of charitable gaming supplies and equipment shall pay and report the fee levied pursuant to this subsection on or before the twentieth day of the calendar month next succeeding the month in which possession of the charitable gaming supplies and equipment is transferred from the distributor to the licensed charitable organization, in accordance with administrative regulations promulgated by the division.

(b) The division may require a bond from distributors in accordance with the administrative regulations promulgated by the division.

(4) If the alternative license fee schedule as provided in subsection (3) of this section is activated due to a final decision of the highest appellate court in the Commonwealth of Kentucky as provided in subsection (3) of this section, the distributor's license fee as provided in KRS 238.530(1) shall become inapplicable.

(5) A percentage of the gross receipts shall be deducted from the fees imposed on charitable gaming in subsections (1) and (2) of this section and shall be subsequently deposited, on a quarterly basis, into the compulsive gamblers assistance fund created in Section 1 of this Act, in the following amounts:

(a) One-hundredth of one percent (0.01%) during fiscal years 2000-2001 and 2001-2002;

(b) Three-hundredths of one percent (0.03%) during fiscal years 2002-2002 and 2003-2002; and

(c) Seven-hundredths of one percent (0.07%) during fiscal year 2004-2005, and each fiscal year thereafter.

Section 7. KRS 164.7871 is amended to read as follows:

(1) The General Assembly of the Commonwealth of Kentucky hereby declares that the best interest of the Commonwealth mandates that financial assistance be provided to ensure access of Kentucky citizens to public and private postsecondary education at the postsecondary educational institutions of the Commonwealth.

(2) It is the intent and purpose of the General Assembly that the enactment of KRS 164.7871 to 164.7885 shall be construed as a long-term financial commitment to postsecondary education and that the funding provided by KRS 154A.130***(4)***~~[(3)]~~ and ***(5)***~~[(4)]~~ shall not be diverted from the purposes described in KRS 164.7871 to 164.7885 and KRS 164.7889.

HB 720, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A telephone call or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;
2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or
3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation"***, except with respect to a solicitation sent to a facsimile machine as defined in subsection (14) of this section,*** does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by any of the following:

1. A college or university accredited by a national or regional accrediting organization;
2. An organization exempt from taxation under Section 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code;
3. A school, or a person on behalf of a school, regulated by the Kentucky Department of Education;
4. A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;
5. A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;
6. An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;
7. An employment agency that has obtained a current permit from the Cabinet for Workforce Development under the provisions of KRS Chapter 340;
8. A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;
9. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, when the merchant or telemarketer is regulated by the Public Service Commission;
10. A merchant or telemarketer soliciting the sale of food costing less than one hundred dollars ($100) to each address;
11. A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;
12. Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;
13. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent when the merchant or telemarketer is subject to the control or licensure regulations of the Federal Communications Commission;
14. A book, video, or record club or contractual plan or arrangement in which the merchant or telemarketer provides the consumer with a form which the consumer may use to instruct the merchant or telemarketer not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;
15. A merchant or telemarketer who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation;
16. Any telephone marketing service company which provides telemarketing sales services under contract to

merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;

17. A telephone call made by a merchant or telemarketer located in Kentucky to a location outside the Commonwealth of Kentucky;

18. A merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or

19. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, where the merchant or telemarketer is a publicly traded corporation;

Except for paragraph (d)16. of this subsection, the exemptions provided under this subsection shall apply only to a merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent engaging in a telephone solicitation on the merchant's or telemarketer's behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes, but is not limited to, any such person that is an owner, operator, officer, director, or partner to the management activities of a business.

(12) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

(a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 781) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

(b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

(c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation.

(14) "Telephone facsimile machine" means equipment that has the capacity to:

(a) Transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line; or

(b) Transcribe text or images, or both, from an electric signal received over a regular telephone line onto paper.

(15) "Unsolicited advertisement" means any material advertising the commercial availability or quality of any property, goods, or services that is transmitted to any person without that person's prior express invitation or permission.

SECTION 2. A NEW SECTION OF KRS CHAPTER 367 IS CREATED TO READ AS FOLLOWS:

(1) No person shall use a computer or other electronic device to send any telephone solicitation to a facsimile machine

unless that person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission:

(a) The date and time the solicitation is sent; and

(b) The telephone number of the sending machine or of the business sending the solicitation.

(2) Notwithstanding any provision of KRS Chapter 367 to the contrary, it shall be unlawful to send any unsolicited advertisement to a telephone facsimile machine.

The Committee Substitute No. 1 to **HB 720** is as follows:

HB 720, AN ACT relating to consumer protection.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 367.46951 is amended to read as follows:

As used in KRS 367.46951 to 367.46999, unless the context otherwise requires:

(1) "Telephone solicitation" means:

(a) A telephone call or message sent by a facsimile machine to a residential, mobile, or telephone paging device telephone number, including a call made by an automatic dialing or recorded message device, for the purpose of:

1. Soliciting a sale of consumer goods or services, offering an investment, business, or employment opportunity, or offering a consumer loan to the person called;

2. Obtaining information that will or may be used for the solicitation of a sale of consumer goods or services, the offering of an investment, business, or employment opportunity, or the offering of a consumer loan to the person called;

3. Offering the person called a prize, gift, or anything else of value, if payment of money or other consideration is required in order to receive the prize or gift, including the purchase of other merchandise or services or the payment of any processing fees, delivery charges, shipping and handling fees, or other fees or charges; or

4. Offering the person called a prize, gift, or other incentive to attend a sales presentation for consumer goods or services, an investment or business opportunity, or a consumer loan; or

(b) A solicitation or attempted solicitation which is made by telephone in response to inquiries generated by unrequested notifications sent by the merchant to persons who have not previously purchased goods or services from the merchant or telemarketer or who have not previously requested credit from the merchant, to a prospective purchaser if the merchant or telemarketer represents or implies to the recipient of the notification that any of the following applies:

1. That the recipient has in any manner been specially selected to receive the notification or the offer contained in the notification;

2. That the recipient will receive a prize or gift if the recipient calls the merchant or telemarketer; or

3. That if the recipient buys one (1) or more items from the merchant or telemarketer, the recipient will also receive additional or other items of the same or a different type at no additional cost or for less than the regular price of the items;

(2) "Telephone solicitation"***, except with respect to a solicitation sent to a facsimile machine as defined in subsection (14) of this section,*** does not mean the following:

(a) A telephone call made in response to an express request of a person called, unless the request was made during a prior telephone solicitation;

(b) A telephone call made primarily in connection with the payment or performance of an existing debt or contract, the payment or performance of which has not been completed at the time of the call;

(c) A telephone call to any person with whom the telemarketer or merchant has a prior or existing business relationship, including but not limited to the solicitation of contracts for the maintenance or repair of items previously purchased from the person making the solicitation or on whose behalf the solicitation is made;

(d) A telephone call made by any of the following:

1. A college or university accredited by a national or regional accrediting organization;

2. An organization exempt from taxation under Section 501(c)(3) or Section 501(c)(6) of the Internal Revenue Code;

3. A school, or a person on behalf of a school, regulated by the Kentucky Department of Education;

4. A real estate broker or sales associate properly licensed under the provisions of KRS Chapter 324;

5. A broker-dealer, agent, or investment adviser properly registered under the provisions of KRS Chapter 292;
6. An insurance agent, solicitor, or consultant properly licensed under the provisions of Subtitle 9 of KRS Chapter 304;
7. An employment agency that has obtained a current permit from the Cabinet for Workforce Development under the provisions of KRS Chapter 340;
8. A person soliciting the sale of a subscription to a newspaper, magazine, or periodical of general circulation, or a cable television service;
9. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, when the merchant or telemarketer is regulated by the Public Service Commission;
10. A merchant or telemarketer soliciting the sale of food costing less than one hundred dollars ($100) to each address;
11. A person who periodically issues and delivers catalogs to potential purchasers if the catalog includes a written description or illustration and the sales price of each item offered for sale, includes at least twenty-four (24) full pages of written material or illustrations, is distributed in more than one (1) state, and has an annual circulation of not less than two hundred fifty thousand (250,000) customers;
12. Any corporation, partnership, or individual whose business or activities are regulated by the Commonwealth of Kentucky, Department for Financial Institutions;
13. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent when the merchant or telemarketer is subject to the control or licensure regulations of the Federal Communications Commission;
14. A book, video, or record club or contractual plan or arrangement in which the merchant or telemarketer provides the consumer with a form which the consumer may use to instruct the merchant or telemarketer not to ship the offered merchandise, or which is regulated by federal regulation concerning the use of negative option plans by sellers in commerce, or which otherwise provides for the sale of books, records, or videos. Examples of the latter plan include continuity plans, subscription arrangements, standing order arrangements, supplements, and series arrangements under which the seller periodically ships merchandise to a consumer who has consented in advance to receive the merchandise on a periodic basis;
15. A merchant or telemarketer who: solicits without intent to complete or obtain provisional acceptance of a sale during the telephone solicitation; does not make the major sales presentation during the solicitation but arranges for the major presentation to be made at a later, face-to-face meeting between the sales person and the purchaser; and does not go or cause another to collect payment for the purchase or deliver any item purchased to the prospective purchaser directly following the telephone solicitation;
16. Any telephone marketing service company which provides telemarketing sales services under contract to merchants and has been operating continuously for at least five (5) years under the same business name and seventy-five percent (75%) of whose services are performed for merchants exempted under KRS 367.46951 to 367.46999, if the company files an annual certification with the Office of the Attorney General on a form prescribed by the Attorney General. The certification shall include the company's basis for claiming the exemption and shall indicate the company's agreement to comply with the provisions of KRS 367.46951 to 367.46999, if applicable;
17. A telephone call made by a merchant or telemarketer located in Kentucky to a location outside the Commonwealth of Kentucky;
18. A merchant or his employee if the merchant has operated for at least two (2) years, under the same name as that used in connection with its telemarketing operations, a retail establishment in Kentucky where consumer goods are displayed and offered for sale on a continuing basis if a majority of the merchant's business involves the buyers obtaining services or products at the merchant's retail establishment; or
19. A merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent, where the merchant or telemarketer is a publicly traded corporation;

Except for paragraph (d)16. of this subsection, the exemptions provided under this subsection shall apply only to a merchant or telemarketer or the merchant's or telemarketer's affiliate or authorized agent engaging in a telephone solicitation on the merchant's or telemarketer's behalf;

(3) "Consumer goods or services" means goods, services, or interests in real property used by natural persons primarily for personal, family, or household purposes;

(4) "Consumer loan" means any extension of credit, including credit cards and other forms of revolving credit, to a natural person primarily for the purposes of purchasing consumer goods or services or for paying existing personal, family, or household debts;

(5) "Consumer" means a natural person who receives a telephone solicitation;

(6) "Legal name of the merchant" means the real name of the merchant, as defined in KRS 365.015(1), or the assumed name of the merchant for which all proper certificates have been filed pursuant to KRS 365.015;

(7) "Merchant" means the individual or business entity offering the consumer goods or services, an investment, business, or employment opportunity, or a consumer loan;

(8) "Caller" or "sales person" means the individual making the call or operating the automatic dialing or recorded message device and causing the call to be made;

(9) "Division" means the Consumer Protection Division of the Office of the Attorney General;

(10) "Automated calling equipment" means any device or combination of devices used to select or dial telephone numbers and to deliver recorded messages to those numbers without the use of a live operator; and

(11) "Telemarketer" means any person who under contract with a merchant or in connection with a telephone solicitation initiates or receives telephone calls to or from a consumer of goods and services. A telemarketer includes, but is not limited to, any such person that is an owner, operator, officer, director, or partner to the management activities of a business.

(12) "Publicly-traded corporation" means an issuer or subsidiary of an issuer that has a class of securities which is:

    (a) Subject to Section 12 of the Securities Exchange Act of 1934 (15 U.S.C. sec. 78l) and which is registered or exempt from registration under paragraph (A), (B), (C), (E), (F), (G), or (H) of subsection (g)(2) of that section;

    (b) Listed on the New York Stock Exchange, the American Stock Exchange, or the NASDAQ National Market System; or

    (c) A reported security within the meaning of subparagraph (4) of Regulation Section 240.11Aa3-1.(a) under the Securities Exchange Act of 1934. A subsidiary of an issuer that qualifies for exemption under this paragraph shall not itself be exempt unless at least sixty percent (60%) of the voting power of its shares is owned by the qualifying issuer.

(13) "Telemarketing company" means a company whose primary business is to engage in telephone solicitation.

(14) "Telephone facsimile machine" means equipment that has the capacity to:

    (a) Transcribe text or images, or both, from paper into an electronic signal and to transmit that signal over a regular telephone line; or

    (b) Transcribe text or images, or both, from an electric signal received over a regular telephone line onto paper.

(15) "Unsolicited advertisement" means any material advertising the commercial availability or quality of any property, goods, or services that is transmitted to any person without that person's prior express invitation or permission.

SECTION 2. A NEW SECTION OF KRS 367.46951 TO 367.46999 IS CREATED TO READ AS FOLLOWS:

(1) No person shall use a computer or other electronic device to send any telephone solicitation to a facsimile machine unless that person clearly marks, in a margin at the top or bottom of each transmitted page of the message or on the first page of the transmission:

    (a) The date and time the solicitation is sent; and

    (b) The telephone number of the sending machine or of the business sending the solicitation.

(2) Notwithstanding any provision of KRS Chapter 367 to the contrary, it shall be unlawful to send any unsolicited advertisement to a telephone facsimile machine.

Section 3. KRS 367.46999 is amended to read as follows:

Any person, including, but not limited to, a merchant, a telemarketer, a salesperson, agent or representative of the merchant, or an independent contractor, who knowingly violates any provision of KRS 367.46951 to 367.46999 or engages in any act, practice, or course of business which operates or would operate as fraud or deceit upon any person in connection with a sale shall be guilty of a Class D felony, except that any person who violates KRS 367.46955(7) to (16) ***or Section 2 of this Act*** shall be guilty of a Class B misdemeanor for the first offense and a Class A misdemeanor for any subsequent offense. The Office of the Attorney General shall have concurrent enforcement powers as to such felonies and misdemeanors.

HB 763, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

    (a) Applications and examinations;

    (b) Certification and selection of eligibles;

    (c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985***; and***

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;~~[and]~~

(j) ***For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:***

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;

2. Provide for periodic informal reviews during the evaluation period;

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and

6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 2. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension, or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records

related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established ***in subsection (7)(j) of Section 1 of this Act***[~~under KRS 18A.112~~].

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS

13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 3. KRS 18A.355 is amended to read as follows:

(1) An annual increment of not less than five percent (5%) of the base salary or wages of each state employee shall be granted to each employee on his anniversary date. The employee's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employee, the employee's base salary or wages shall be increased by the amount of such increment. An employee's base salary or wages shall not be increased by the amount of lump-sum payment awarded under ***subsection (7)(j) of Section 1 of this Act***~~[the provisions of KRS 18A.112 awarded him]~~.

(2) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a request for the amount of the annual increment expressed as a percentage of each employee's base salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employees. The financial plan enacted under the provisions of KRS 48.300 shall contain the annual increment expressed as a percentage of each employee's base salary or wages, and the total appropriation needed to fund the annual increment.

(3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by KRS 18A.1132, are taken. Any such reduction shall be uniform for all state employees and shall comply with the provisions of this chapter and KRS Chapter 48.

Section 4. The following KRS section is repealed:

18A.112 Performance evaluations.

The Committee Substitute No. 1 to **HB 763** is as follows:

HB 763, AN ACT relating to state employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 18A.110 is amended to read as follows:

(1) The secretary shall promulgate comprehensive administrative regulations for the classified service governing:

(a) Applications and examinations;

(b) Certification and selection of eligibles;

(c) Classification and compensation plans;

(d) Incentive programs;

(e) Layoffs;

(f) Registers;

(g) Types of appointments;

(h) Attendance; hours of work; compensatory time; annual, court, military, sick, voting, and special leaves of absence, provided that the secretary shall not promulgate administrative regulations that would reduce the rate at which employees may accumulate leave time below the rate effective on December 10, 1985***; and***

(i) Employee evaluations.

(2) The secretary shall promulgate comprehensive administrative regulations for the unclassified service.

(3) (a) Except as provided by KRS 18A.355, the secretary shall not promulgate administrative regulations that would reduce an employee's salary; and

(b) As provided by KRS 18A.0751(4)(e), the secretary may submit a proposed administrative regulation providing for an initial probationary period in excess of six (6) months to the board for its approval.

(4) The secretary may promulgate administrative regulations to implement state government's affirmative action plan under KRS 18A.138.

(5) (a) The administrative regulations shall comply with the provisions of this chapter and KRS Chapter 13A, and shall have the force and effect of law after compliance with the provisions of KRS Chapters 13A and 18A and the procedures adopted thereunder;

(b) Administrative regulations promulgated by the secretary shall not expand or restrict rights granted to, or duties imposed upon, employees and administrative bodies by the provisions of this chapter; and

(c) No administrative body other than the Personnel Cabinet shall promulgate administrative regulations governing the subject matters specified in this section.

(6) Prior to filing an administrative regulation with the Legislative Research Commission, the secretary shall submit the administrative regulation to the board for review.

(a) The board shall review the administrative regulation proposed by the secretary not less than twenty (20) days after its submission to it;

(b) Not less than five (5) days after its review, the board shall submit its recommendations in writing to the secretary;

(c) The secretary shall review the recommendations of the board and may revise the proposed administrative regulation if he deems it necessary; and

(d) After the secretary has completed the review provided for in this section, he may file the proposed administrative regulation with the Legislative Research Commission pursuant to the provisions of KRS Chapter 13A.

(7) The administrative regulations shall provide:

(a) For the preparation, maintenance, and revision of a position classification plan for all positions in the classified service, based upon similarity of duties performed and responsibilities assumed, so that the same qualifications may reasonably be required for, and the same schedule of pay may be equitably applied to, all positions in the same class. The secretary shall allocate the position of every employee in the classified service to one (1) of the classes in the plan. The secretary shall reallocate existing positions, after consultation with appointing authorities, when it is determined that they are incorrectly allocated, and there has been no substantial change in duties from those in effect when such positions were last classified. The occupant of a position being reallocated shall continue to serve in the reallocated position with no reduction in salary;

(b) For a pay plan for all employees in the classified service, after consultation with appointing authorities and the state budget director. The plan shall take into account such factors as:

1. The relative levels of duties and responsibilities of various classes of positions;

2. Rates paid for comparable positions elsewhere taking into consideration the effect of seniority on such

rates; and

3. The state's financial resources.

Amendments to the pay plan shall be made in the same manner. Each employee shall be paid at one (1) of the rates set forth in the pay plan for the class of position in which he is employed, provided that the full amount of the annual increment provided for by the provisions of KRS 18A.355, and the full amount of an increment due to a promotion, salary adjustment, reclassification, or reallocation, shall be added to an employee's base salary or wages;

(c) For open competitive examinations to test the relative fitness of applicants for the respective positions. The examinations shall be announced publicly and applications accepted at least ten (10) days prior to certification of a register, and may be advertised through the press, radio, and other media. The secretary shall continue to receive applications and examine candidates on a continuous basis long enough to assure a sufficient number of eligibles to meet the needs of the service. Except as provided by this chapter, he shall add the names of successful candidates to existing eligible lists in accordance with their respective ratings. The secretary shall be free to use any investigation of education and experience and any test of capacity, knowledge, manual skill, character, personal traits, or physical fitness, which in his judgment, serves the need to discover the relative fitness of applicants;

(d) As provided by this chapter, for the establishment of eligible lists for appointment, upon which lists shall be placed the names of successful candidates in the order of their relative excellence in the respective examinations. Except as provided by this chapter, an eligible's score shall expire automatically one (1) year from the date of testing, unless the life of the score is extended by action of the secretary for a period not to exceed one (1) additional year. Except for those individuals exercising reemployment rights, all eligibles may be removed from the register when a new examination is established;

(e) For the rejection of candidates or eligibles who fail to comply with reasonable requirements of the secretary in regard to such factors as age, physical condition, training, and experience, or who have attempted any deception or fraud in connection with an examination;

(f) Except as provided by this chapter, for the appointment of a person whose score is included in the five (5) highest scores earned on the examination;

(g) For annual, sick, and special leaves of absence, with or without pay, or reduced pay, after approval by the Governor as provided by KRS 18A.155(1)(d);

(h) For layoffs, in accordance with the provisions of KRS 18A.113, 18A.1131, and 18A.1132, by reasons of lack of work, abolishment of a position, a material change in duties or organization, or a lack of funds;

(i) For the development and operation of programs to improve the work effectiveness of employees in the state service, including training, whether in-service or compensated educational leave, safety, health, welfare, counseling, recreation, employee relations, and employee mobility without written examination;~~[and]~~

(j) ***For a uniform system of annual employee evaluation for classified employees, with status, that shall be considered in determining eligibility for discretionary salary advancements, promotions, and disciplinary actions. The administrative regulations shall:***

1. Require the secretary to determine the appropriate number of job categories to be evaluated and a method for rating each category;

2. Provide for periodic informal reviews during the evaluation period which shall be documented on the evaluation form and pertinent comments by either the employee or supervisor may be included;

3. Establish a procedure for internal dispute resolution with respect to the final evaluation rating;

4. Permit a classified employee, with status, who receives either of the two (2) lowest possible evaluation ratings to appeal to the Personnel Board for review after exhausting the internal dispute resolution procedure. The final evaluation shall not include supervisor comments or ratings other than the lowest two (2) ratings ;

5. Require that an employee who receives the highest possible rating shall receive the equivalent of two (2) workdays, not to exceed sixteen (16) hours, credited to his or her annual leave balance. An employee who receives the second highest possible rating shall receive the equivalent of one (1) workday, not to exceed eight (8) hours, credited to his or her annual leave balance; and

6. Require that an employee who receives the lowest possible evaluation rating shall either be demoted to a position commensurate with the employee's skills and abilities or be terminated; and

(k) For other administrative regulations not inconsistent with this chapter and KRS Chapter 13A, as may be proper and necessary for its enforcement.

Section 2. KRS 18A.095 is amended to read as follows:

(1) (a) The provisions of this section shall not apply to employees commissioned pursuant to the provisions of KRS 281.770.

(b) Dismissals, demotions, suspensions, and other penalizations of these commissioned employees, and appeals relating thereto, shall be governed by the provisions of KRS 281.771 and 281.772.

(2) A classified employee with status shall not be dismissed, demoted, suspended, or otherwise penalized except for cause.

(3) Prior to dismissal, a classified employee with status shall be notified in writing of the intent to dismiss him. The notice shall also state:

(a) The specific reasons for dismissal including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the intent to dismiss is based;

3. The date, time, and place of such action or activity; and

4. The name of the parties involved; and

(b) That the employee has the right to appear personally, or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(4) The Personnel Cabinet shall prescribe and distribute a form to be completed and forwarded by an employee who wishes to appear before the head of the cabinet or agency or his designee, to each appointing authority. The form shall be attached to every notice of intent to dismiss, and shall contain written instructions explaining:

(a) The right granted an employee under the provisions of this section relating to pretermination hearings; and

(b) The time limits and procedures to be followed by all parties in pretermination hearings.

(5) No later than five (5) working days after receipt of the notice of intent to dismiss, excluding the day he receives the notice, the employee may request to appear, personally or with counsel if he has retained counsel, to reply to the head of the cabinet or agency or his designee.

(6) Unless waived by the employee, the appearance shall be scheduled within six (6) working days after receipt of an employee's request to appear before the head of the cabinet or agency or his designee, excluding the day his request is received.

(7) No later than five (5) working days after the employee appears before the head of the cabinet or agency or his designee, excluding the day of the appearance, the cabinet head or agency or his designee shall:

(a) Determine whether to dismiss the employee or to alter, modify, or rescind the intent to dismiss; and

(b) Notify the employee in writing of the decision.

(8) If the cabinet or agency head or his designee determines that the employee shall be dismissed or otherwise penalized, the employee shall be notified in writing of:

(a) The effective date of his dismissal or other penalization;

(b) The specific reason for this action, including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the dismissal or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved;

(c) That he may appeal the dismissal or other penalization to the board within sixty (60) days after receipt of this notification, excluding the day he receives notice.

(9) A classified employee with status who is demoted, suspended, or otherwise penalized shall be notified in writing of:

(a) The demotion, suspension, or other penalization;

(b) The effective date of the demotion, suspension, or other penalization;

(c) The specific reason for the action including:

1. The statutory or regulatory violation;

2. The specific action or activity on which the demotion, suspension, or other penalization is based;

3. The date, time, and place of the action or activity; and

4. The name of the parties involved; and

(d) That he has the right to appeal to the board within sixty (60) days, excluding the day that he received notification.

(10) Any unclassified employee who is dismissed, demoted, suspended, or otherwise penalized for cause may, within thirty (30) days after the dismissal, demotion, suspension, or other form of penalization, appeal to the board for review thereof.

(11) (a) An employee whose position is reallocated shall be notified in writing by the appointing authority of:

1. The reallocation; and

2. His right to request reconsideration by the secretary within ten (10) working days of receipt of the notice, excluding the day he receives notification;

(b) He shall be provided with a form prescribed by the secretary on which to request reconsideration; and

(c) The employee shall file a written request for reconsideration of the reallocation of his position with the secretary in a manner and form prescribed by the secretary and shall be given a reasonable opportunity to be heard thereon by the secretary. The secretary shall make a determination within sixty (60) days after the request has been filed by an employee. After reconsideration of the request by the secretary, the employee may appeal to the board.

(12) Any state employee, applicant for employment, or eligible on a register may appeal to the board on the grounds that his right to inspect or copy records, including preliminary and other supporting documentation, relating to him has been denied, abridged, or impeded by a public agency. The board shall conduct a hearing to determine whether the records related to the employee, applicant, or eligible, and whether his right to inspect or copy these records was denied, abridged, or impeded. If the board determines that the records related to the employee and that the right to inspect or copy these records has been denied, abridged, or impeded, the board shall order the public agency to make them available for inspection and copying and shall charge the cost of the hearing to the public agency. A state employee, an applicant for employment, and an eligible on a register shall not have the right to inspect or to copy any examination materials.

(13) Any classified employee may appeal to the board an action alleged to be based on discrimination due to race, color, religion, national origin, sex, disability, or age forty (40) and above. Nothing in this section shall be construed to preclude any classified or unclassified employee from filing with the Kentucky Commission on Human Rights a complaint alleging discrimination on the basis of race, color, religion, national origin, sex, disability, or age in accordance with KRS Chapter 344.

(14) When an eligible's name is removed from a register, the secretary shall notify the eligible of his action and the reasons therefor, together with his right of appeal. An eligible's name shall be restored to the register upon presentation of reasons satisfactory to the secretary or in accordance with the decision of the board.

(15) (a) Any employee, applicant for employment, or eligible on a register, who believes that he has been discriminated against, may appeal to the board;

(b) Any applicant whose application for admission to an open-competitive examination has been rejected shall be notified of this rejection and the reasons therefor and may appeal to the board for reconsideration of his qualifications and for admission to the examination. Applicants may be conditionally admitted to an examination by the secretary pending reconsideration by the board;

(c) Any applicant who has taken an examination may appeal to the board for a review of his rating in any part of the examination to assure that uniform rating procedures have been applied equally and fairly;

(d) An appeal to the board by applicants or eligibles under subsections (11) and (13) of this section and under this subsection shall be filed in writing with the executive director not later than thirty (30) calendar days after the notification of the action in question was mailed.

(16) An evaluation may be appealed to the board if an employee has complied with the review procedure established ***in subsection (7)(j) of Section 1 of this Act***~~[under KRS 18A.112]~~.

(17) (a) Appeals to the board shall be in writing on an appeal form prescribed by the board. Appeal forms shall be available at the employee's place of work. The Personnel Cabinet shall be responsible for the distribution of these forms;

(b) The appeal form shall be attached to any notice, or copy of any notice, of dismissal, demotion, suspension, fine, involuntary transfer, or other penalization, reallocation, or notice of any other action an employee may appeal under the provisions of this section. The appeal form shall instruct the employee to state whether he is a classified or unclassified employee, his full name, his appointing authority, work station address and telephone number, and, if he has retained counsel at the time he files an appeal, the name, address, and telephone number of his attorney;

(c) The form shall also instruct a classified employee to state the action he is appealing in a short, plain, concise statement of the facts. The form shall instruct an unclassified employee to make a short, plain, concise statement of the reason for the appeal and the cause given for his dismissal; and

(d) Upon receipt of the appeal by the board, the appointing authority and the Personnel Cabinet shall be notified and the board shall schedule a hearing.

(18) All administrative hearings conducted by the board shall be conducted in accordance with KRS Chapter 13B.

(19) (a) The board may deny a hearing to an employee who has failed to file an appeal within the time prescribed by this section; and to an unclassified employee who has failed to state the reasons for the appeal and the cause for which he has been dismissed. The board may deny any appeal after a preliminary hearing if it lacks jurisdiction to grant relief. The board shall notify the employee of its denial in writing and shall inform the employee of his right to appeal the denial under the provisions of KRS 18A.100;

(b) Any investigation by the board of any matter related to an appeal filed by an employee shall be conducted only upon notice to the employee, the employee's counsel, and the appointing authority. All parties to the appeal shall have access to information produced by the investigations and the information shall be presented at the hearing.

(20) Each appeal shall be decided individually, unless otherwise agreed by the parties and the board. The board shall not:

(a) Employ class action procedures; or

(b) Conduct test representative cases.

(21) Board members shall abstain from public comment about a pending or impending proceeding before the board. This shall not prohibit board members from making public statements in the course of their official duties or from explaining for public information the procedures of the board.

(22) An appeal to the board may be heard by the full board or one (1) or more of the following: Its executive director, its general counsel, any nonelected member of the board, or any hearing officer secured by the board pursuant to KRS 13B.030.

(23) (a) If the board finds that the action complained of was taken by the appointing authority in violation of laws prohibiting favor for, or discrimination against, or bias with respect to, his political or religious opinions or affiliations or ethnic origin, or in violation of laws prohibiting discrimination because of such individual's sex or age or disability, the appointing authority shall immediately reinstate the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(b) If the board finds that the action complained of was taken without just cause, the board shall order the immediate reinstatement of the employee to his former position or a position of like status and pay, without loss of pay for the period of his penalization, or otherwise make the employee whole unless the order is stayed by the board or the court on appeal;

(c) If the board finds that the action taken by the appointing authority was excessive or erroneous in view of all the surrounding circumstances, the board shall direct the appointing authority to alter, modify, or rescind the disciplinary action;

(d) In all other cases, the board shall direct the appointing authority to rescind the action taken or otherwise grant specific relief or dismiss the appeal.

(24) If a final order of the board is appealed, a court shall award reasonable attorney fees to an employee who prevails by a final adjudication on the merits as provided by KRS 453.260. This award shall not include attorney fees attributable to the hearing before the board.

(25) When any employee is dismissed and not ordered reinstated after the appeal, the board in its discretion may direct that his name be placed on an appropriate reemployment list for employment in any similar position other than the one from which he had been removed.

(26) After a final decision has been rendered by the board or court, an employee who prevails in his appeal shall be credited with the amount of leave time used for time spent at his hearing before the board or court. Employees who had an insufficient amount of leave time shall be credited with leave time equal to the amount of time spent at their hearings before the board or court.

(27) If the appointing authority appeals the final order of the board, unless the board rules otherwise, the reinstated employee shall remain in his former position, or a position of like status or pay, until the conclusion of the appeals process, at which time the appointing authority shall take action in accordance with the court order.

(28) For the purposes of subsections (3), (4), (5), (6), (7), and (8) of this section, the word "agency" means any agency not assigned to a cabinet for organizational purposes.

(29) Notwithstanding any other prescribed limitation of action, an employee that has been penalized, but has not received a written notice of his or her right to appeal as provided in this section, shall file his or her appeal with the Personnel Board within one (1) year from the date of the penalization or from the date that the employee reasonably should have known of the penalization.

Section 3. KRS 18A.355 is amended to read as follows:

(1) An annual increment of not less than five percent (5%) of the base salary or wages of each state employee shall be granted to each employee on his anniversary date. The employee's base salary or wages shall be increased by the amount of the annual increment. When any increment due to a promotion, reallocation, reclassification or salary adjustment is granted an employee, the employee's base salary or wages shall be increased by the amount of such increment. An employee's base salary or wages shall not be increased by the amount of lump-sum payment awarded under ***subsection (7)(j) of Section 1 of this Act***[~~the provisions of KRS 18A.112 awarded him~~].

(2) The branch budget recommendation submitted to the General Assembly under KRS Chapter 48 shall include a request for the amount of the annual increment expressed as a percentage of each employee's base salary or wages and a request for the total appropriation needed to fund the annual increment. The annual increment shall be uniform for all employees. The financial plan enacted under the provisions of KRS 48.300 shall contain the annual increment expressed as a percentage of

each employee's base salary or wages, and the total appropriation needed to fund the annual increment.

(3) The budget reduction plan submitted and enacted under the provisions of KRS Chapter 48 shall provide that a reduction of the annual increment granted under this section shall be made only after other cost savings measures, as provided by KRS 18A.1132, are taken. Any such reduction shall be uniform for all state employees and shall comply with the provisions of this chapter and KRS Chapter 48.

Section 4. The following KRS section is repealed:

18A.112 Performance evaluations.

HB 822, AN ACT relating to taxpayer information.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 131.081 is amended to read as follows:

The following rules, principles, or requirements shall apply in the administration of all taxes subject to the jurisdiction of the Revenue Cabinet.

(1) The cabinet shall develop and implement a Kentucky tax education and information program directed at new taxpayers, taxpayer and industry groups, and cabinet employees to enhance the understanding of and compliance with Kentucky tax laws, including the application of new tax legislation to taxpayer activities and areas of recurrent taxpayer noncompliance or inconsistency of administration.

(2) The cabinet shall publish brief statements in simple and nontechnical language which explain procedures, remedies, and the rights and obligations of taxpayers and the cabinet. These statements shall be provided to taxpayers with the initial notice of audit; each original notice of tax due; each denial or reduction of a refund or credit claimed by a taxpayer; each denial, cancellation, or revocation of any license, permit, or other required authorization applied for or held by a taxpayer; and, if practical and appropriate, in informational publications by the cabinet distributed to the public.

(3) Taxpayers shall have the right to be assisted or represented by an attorney, accountant, or other person in any conference, hearing, or other matter before the cabinet. The taxpayer shall be informed of this right prior to conduct of any conference or hearing.

(4) The cabinet shall perform audits and conduct conferences and hearings only at reasonable times and places.

(5) Taxpayers shall have the right to make audio recordings of any conference with or hearing by the cabinet. The cabinet may make similar audio recordings only if prior written notice is given to the taxpayer. The taxpayer shall be entitled to a copy of this cabinet recording or a transcript as provided in KRS 61.874.

(6) If any taxpayer's failure to submit a timely return or payment to the cabinet is due to the taxpayer's reasonable reliance on written advice from the cabinet, the taxpayer shall be relieved of any penalty or interest with respect thereto provided the taxpayer requested the advice in writing from the cabinet and the specific facts and circumstances of the activity or transaction were fully described in the taxpayer's request, the cabinet did not subsequently rescind or modify the advice in writing and there were no subsequent changes in applicable laws or regulations or a final decision of a court which rendered the cabinet's earlier written advice no longer valid.

(7) Taxpayers shall have the right to receive a copy of any audit of the cabinet by the Auditor of Public Accounts relating to the cabinet's compliance with the provisions of KRS 131.041 to 131.081.

(8) The cabinet shall include with each notice of tax due a clear and concise description of the basis and amount of any tax, penalty, and interest assessed against the taxpayer, and copies of the agent's audit workpapers and the agent's written narrative setting forth the grounds upon which the assessment is made. Taxpayers shall be similarly notified regarding the denial or reduction of any refund or credit claim filed by a taxpayer.

(9) Taxpayers shall have the right to an installment payment agreement for the payment of delinquent taxes, penalties, and interest owed provided the taxpayer requests the agreement in writing clearly demonstrating his inability to pay in full and that the agreement will facilitate collection by the cabinet of the amounts owed. The cabinet may modify or terminate an installment payment agreement if it determines the taxpayer has not complied with the terms of the agreement; the taxpayers' financial condition has sufficiently changed; the taxpayer fails to provide any requested financial condition update information; the taxpayer gave false or misleading information in securing the agreement; or the taxpayer fails to timely report and pay any other tax due the Commonwealth. The cabinet shall give written notice to the taxpayer at least thirty (30) days prior to modifying or terminating an installment payment agreement unless the cabinet has reason to believe that collection of the amounts owed will be jeopardized in whole or in part by delay.

(10) The cabinet shall not knowingly authorize, require, or conduct any investigation or surveillance of any person for nontax administration related purposes, except internal security related investigations involving Revenue Cabinet personnel.

(11) In addition to the circumstances under which an extension of time for filing reports or returns may be granted pursuant to KRS 131.170, taxpayers shall be entitled to the same extension of the due date of any comparable Kentucky tax report or return for which the taxpayer has secured a written extension from the Internal Revenue Service provided the taxpayer

notifies the cabinet in writing and provides a copy of the extension at the time and in the manner which the cabinet may require.

(12) The cabinet shall bear the cost or, if paid by the taxpayer, reimburse the taxpayer for recording or bank charges as the direct result of any erroneous lien or levy by the cabinet, provided the erroneous lien or levy was caused by cabinet error and, prior to issuance of the erroneous lien or levy, the taxpayer timely responded to all contacts by the cabinet and provided information or documentation sufficient to establish his or her position. When the cabinet releases any erroneous lien or levy, notice of the fact shall be mailed to the taxpayer and, if requested by the taxpayer, a copy of the release, together with an explanation, shall be mailed to the major credit reporting companies located in the county where it was filed.

(13) The cabinet shall not evaluate individual officers or employees on the basis of taxes assessed or collected or impose or suggest tax assessment or collection quotas or goals.

(14) Taxpayers shall have the right to bring an action for damages against the Commonwealth to the Board of Claims for actual and direct monetary damages sustained by the taxpayer as a result of willful, reckless, and intentional disregard by cabinet employees of the rights of taxpayers as set out in KRS 131.041 to 131.081 or in the tax laws administered by the cabinet. In the awarding of damages pursuant to this subsection, the board shall take into consideration the negligence or omissions, if any, on the part of the taxpayer which contributed to the damages. If any proceeding brought by a taxpayer is ruled frivolous by the board, the cabinet shall be reimbursed by the taxpayer for its costs in defending the action.

(15) Taxpayers shall have the right to privacy with regard to the information provided on their Kentucky tax returns and reports, including any attached information or documents. Except as provided ***in Section 2 of this Act***[~~by KRS 131.190~~], no information pertaining to the returns, reports, or the affairs of a person's business shall be divulged by the cabinet to any person ***or be intentionally and without authorization inspected by any present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person***.

Section 2. KRS 131.190 is amended to read as follows:

(1) No present or former secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, shall ***intentionally and without authorization inspect or*** divulge any information acquired by him of the affairs of any person, or information regarding the tax schedules, returns, or reports required to be filed with the cabinet or other proper officer, or any information produced by a hearing or investigation, insofar as the information may have to do with the affairs of the person's business. This prohibition does not extend to information required in prosecutions for making false reports or returns of property for taxation, or any other infraction of the tax laws, nor does it extend to any matter properly entered upon any assessment record, or in any way made a matter of public record, nor does it preclude furnishing any taxpayer or his properly authorized agent with information respecting his own return. Further, this prohibition does not preclude the secretary or any employee of the Revenue Cabinet from testifying in any court, or from introducing as evidence returns or reports filed with the cabinet, in an action for violation of state or federal tax laws or in any action challenging state or federal tax laws. The secretary or the secretary's designee may provide an owner of unmined coal, oil or gas reserves, and other mineral or energy resources assessed under KRS 132.820(1), or owners of surface land under which the unmined minerals lie, factual information about the owner's property derived from third-party returns filed for that owner's property, under the provisions of KRS 132.820(2), that is used to determine the owner's assessment. This information shall be provided to the owner on a confidential basis, and the owner shall be subject to the penalties provided in ***Section 3(2) of this Act***[~~KRS 131.990(2)~~]. The third-party filer shall be given prior notice of any disclosure of information to the owner that was provided by the third-party filer.

(2) The secretary shall make available any information for official use only and on a confidential basis to the proper officer, agency, board or commission of this state, any Kentucky county, any Kentucky city, any other state, or the federal government, under reciprocal agreements whereby the cabinet shall receive similar or useful information in return.

(3) Statistics of tax-paid gasoline gallonage reported monthly to the Revenue Cabinet under the gasoline excise tax law may be made public by the cabinet.

(4) Notwithstanding the provisions of this section to the contrary, information received from the Internal Revenue Service shall not be made available to any other agency of state government, or any county, city, or other state***, and shall not be inspected intentionally and without authorization by any present secretary or employee of the Revenue Cabinet, or any other person***.

(5) Statistics of crude oil as reported to the Revenue Cabinet under the crude oil excise tax requirements of KRS Chapter 137 and statistics of natural gas production as reported to the Revenue Cabinet under the natural resources severance tax requirements of KRS Chapter 143A may be made public by the cabinet by release to the Department of Mines and Minerals.

Section 3. KRS 131.990 is amended to read as follows:

(1) Any person who fails or refuses to obey a subpoena or order of the Kentucky Board of Tax Appeals made pursuant to

KRS Chapter 13B shall be fined not less than twenty-five dollars ($25) nor more than five hundred dollars ($500).

(2) ***(a) Any person who violates the intentional unauthorized inspection provisions of Section 2(1) of this Act shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.***

(b) Any person who violates the provisions of Section 2(1) of this Act by divulging confidential taxpayer information shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(c) Any person who violates the intentional unauthorized inspection provisions of Section 2(4) of this Act shall be fined not more than one thousand dollars ($1,000) or imprisoned for not more than one (1) year, or both.

(d) Any person who violates the provisions of Section 2(4) of this Act by divulging confidential taxpayer information shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years, or both.

(e) Any present secretary or employee of the Revenue Cabinet, member of a county board of assessment appeals, property valuation administrator or employee, or any other person, who violates the provisions of Section 2(1) or (4) of this Act may, in addition to the penalties imposed under this subsection, be disqualified and removed from office or employment[~~Any person who violates any of the provisions of KRS 131.190, except subsection (4) thereof, shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both, and shall be disqualified and removed from office or employment. Any person who violates the provisions of KRS 131.190(4) shall be fined not more than five thousand dollars ($5,000) or imprisoned for not more than five (5) years or both~~].

(3) Any person who willfully fails to comply with the rules and regulations promulgated by the Revenue Cabinet for the administration of delinquent tax collections shall be fined not less than twenty dollars ($20) nor more than one thousand dollars ($1,000).

(4) Any person who fails to do any act required or does any act forbidden by KRS 131.210 shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(5) Any person who fails to comply with the provisions of KRS 131.155 shall, unless it is shown to the satisfaction of the cabinet that the failure is due to reasonable cause, pay a penalty of one-half of one percent (0.5%) of the amount that should have been remitted under the provisions of KRS 131.155 for each failure to comply.

HB 825, AN ACT relating to public library services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.201 is amended to read as follows:

(1) For grants to public libraries for promoting, aiding, and equalizing public library service in Kentucky, there may be funds appropriated out of the general expenditure fund of the State Treasury.

(2) In addition to any other funds appropriated to the Department for Libraries and Archives, there shall be appropriated annually to the department out of the general expenditure fund of the State Treasury an amount sufficient to provide the following assistance to local public libraries:

(a) The department shall first distribute to each county public library system a foundation grant based upon the county population using the last official census as follows:

1. Counties with a population of twenty-two thousand (22,000) or less shall receive nine thousand dollars ($9,000);

2. Counties with a population between twenty-two thousand one (22,001) and forty-five thousand (45,000) shall receive eight thousand dollars ($8,000);

3. Counties with a population over forty-five thousand (45,000) shall receive seven thousand dollars ($7,000); and

(b) The department shall distribute the remaining funds appropriated for this program to each county public library system, based on the county's share of the state population, at a rate of fifty-three cents ($0.53) per capita in fiscal year 1997-98, seventy-three cents ($0.73) per capita in fiscal year 1998-99 and each year thereafter to be used for the following purposes:

1. Purchase, upgrading, and maintenance of the technology necessary to enable the staff and the public to have access to electronic information;

2. Purchase of library materials and equipment;

3. Maintenance and operation of bookmobiles and extension programs;

4. Staff training and compensation;

5. Building maintenance;

6. Debt service;
7. Resource-sharing;
8. Program development; and
9. All other local library needs and services; and

(c) For counties which do not have a public library, the department shall make the foundation grant and per capita distribution to a recognized library organization for the purpose of providing or establishing countywide public library service under existing departmental guidelines.

(3) The appropriation necessary to fund the formula foundation grants and a seventy-three cents ($0.73) per capita distribution shall constitute the base for the agency's biennial budget request for this program.

(4) (a) In addition to the foundation grants and per capita distribution to a local public library, there is hereby created within the Department for Libraries and Archives a public library services improvement and equalization fund to assure substantially equal public library services for all citizens of the Commonwealth. The creation of this fund is not intended to limit or prevent any public library from providing services and facilities beyond those assured by the state-supported program.

(b) It is intended that the proceeds of the fund created under this subsection be used to:

1. Improve early childhood development;
2. Support lifelong learning opportunities;
3. Enhance economic development; and
4. Enrich cultural resource opportunities for all Kentuckians.

(5) Expenditures from the fund created in subsection (4) of this section shall not be made unless those expenditures:

(a) Comply with the categories of allowable costs in subsection (2)(b) of this section;

(b) Comply with the enterprise information technology architecture and standards developed by the Commonwealth when utilized for technology procurements; and

(c) Are made in accordance with an agreement that the local public library shall only use the state's established physical telecommunications network, when expending funds for telecommunications requirements.

(6) (a) The fund created under subsection (4) of this section shall be distributed based on a formula using the per population assessment and equalization rate of two hundred percent (200%) of the poverty level per annual population assessment produced by the United States Bureau of Census. The exact formula and distribution of the fund shall be set forth in an administrative regulation promulgated by the Department for Libraries and Archives.

(b) A local public library shall not be qualified to receive funds under subsection (4) of this section, if that library's regular annual appropriation in the previous fiscal year is less than the appropriation received in the current fiscal year.

Section 2. There is appropriated to the public library services improvement and equalization fund created under Section 1 of this Act the amount of six million dollars ($6,000,000) in the fiscal year beginning on July 1, 2001, and ending on June 30, 2002.

The Committee Substitute No. 1 to **HB 825** is as follows:

HB 825, AN ACT relating to public library services and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 171.201 is amended to read as follows:

(1) For grants to public libraries for promoting, aiding, and equalizing public library service in Kentucky, there may be funds appropriated out of the general expenditure fund of the State Treasury.

(2) In addition to any other funds appropriated to the Department for Libraries and Archives, there shall be appropriated annually to the department out of the general expenditure fund of the State Treasury an amount sufficient to provide the following assistance to local public libraries:

(a) The department shall first distribute to each county public library system a foundation grant based upon the county population using the last official census as follows:

1. Counties with a population of twenty-two thousand (22,000) or less shall receive nine thousand dollars ($9,000);
2. Counties with a population between twenty-two thousand one (22,001) and forty-five thousand (45,000) shall receive eight thousand dollars ($8,000);

3. Counties with a population over forty-five thousand (45,000) shall receive seven thousand dollars ($7,000); and

(b) The department shall distribute the remaining funds appropriated for this program to each county public library system, based on the county's share of the state population, at a rate of fifty-three cents ($0.53) per capita in fiscal year 1997-98, seventy-three cents ($0.73) per capita in fiscal year 1998-99 and each year thereafter to be used for the following purposes:

1. Purchase, upgrading, and maintenance of the technology necessary to enable the staff and the public to have access to electronic information;
2. Purchase of library materials and equipment;
3. Maintenance and operation of bookmobiles and extension programs;
4. Staff training and compensation;
5. Building maintenance;
6. Debt service;
7. Resource-sharing;
8. Program development; and
9. All other local library needs and services; and

(c) For counties which do not have a public library, the department shall make the foundation grant and per capita distribution to a recognized library organization for the purpose of providing or establishing countywide public library service under existing departmental guidelines.

(3) The appropriation necessary to fund the formula foundation grants and a seventy-three cents ($0.73) per capita distribution shall constitute the base for the agency's biennial budget request for this program.

(4) (a) In addition to the foundation grants and per capita distribution to a local public library, there is hereby created within the Department for Libraries and Archives a public library services improvement and equalization fund to assure substantially equal public library services for all citizens of the Commonwealth. The creation of this fund is not intended to limit or prevent any public library from providing services and facilities beyond those assured by the state-supported program.

(b) It is intended that the proceeds of the fund created under this subsection be used to:

1. Improve early childhood development;

2. Support lifelong learning opportunities;

3. Enhance economic development;

4. Enrich cultural resource opportunities for all Kentuckians; and

5. Expand adult education and adult literacy programs.

(5) Expenditures from the fund created in subsection (4) of this section shall not be made unless those expenditures:

(a) Comply with the categories of allowable costs in subsection (2)(b) of this section; and

(b) Comply with the enterprise information technology architecture and standards developed by the Commonwealth when utilized for technology procurements.

(6) (a) The fund created under subsection (4) of this section shall be distributed based on a formula using the per population assessment and equalization rate of two hundred percent (200%) of the poverty level per annual population assessment produced by the United States Bureau of Census. The exact formula and distribution of the fund shall be set forth in an administrative regulation promulgated by the Department for Libraries and Archives.

(b) A local public library shall not be qualified to receive funds under subsection (4) of this section, if that library's regular annual appropriation in the current fiscal year is less than the appropriation received in the previous fiscal year.

SECTION 2. A NEW SECTION OF KRS CHAPTER 171 IS CREATED TO READ AS FOLLOWS:

There is established a public library facilities construction fund to assist local libraries with debt service payments for new library facilities and library improvements. The Department for Library and Archives is authorized to enter into long-term written memoranda of agreement with local libraries or other governing bodies to assist in debt service payments relating to library construction or renovation projects. The agreements shall specify the rights, duties, and obligations of both the local public library, or other governing body, and the department. The department shall promulgate administrative regulations to establish the application process, criteria for selecting projects for assistance, a minimum level of local participation, and the process to be followed in the construction of facilities. The department shall report assistance awards to the Interim Joint Committee on Appropriations and Revenue within thirty (30) days of execution of any memorandum of agreement.

Section 3. There is appropriated to the public library services improvement and equalization fund created under Section 1 of this Act the amount of six million dollars ($6,000,000) in the fiscal year beginning on July 1, 2001, and each year thereafter.

HB 826, AN ACT relating to state procurement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

(1) "Made" means to assemble, fabricate, or process component parts into a finished end-product, the value of which assembly, fabrication, processing, or research and development is a significant portion of the value of the finished end-product. What constitutes a significant portion shall be set out in each solicitation that is subject to the provisions of Sections 1 to 5 of this Act.

(2) "Manufacture" means to make or process raw materials into a finished end-product;

(3) "Mined" means any activity performed under a permit issued under KRS Chapters 350, 351, 352, and 353;

(4) "Grown" means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end-product that is locally derived from the product cultivated, raised, caught, or harvested;

(5) "End-product" means the item described in the solicitation, including all component parts, and in final form and ready for the use intended by the using agency;

(6) "Unreasonable cost" means that the best value bid or evaluated bid price exceeds by more than five percent (5%) the lowest, responsive and responsible, best value bid or evaluated bid price on the same item or end-product that is made, manufactured, or grown in other states of the United States, or in a foreign country or territory;

(7) "Resident bidder or offeror" means a bidder or offeror who is considered to be a resident of the Commonwealth, if the bidder or offeror:

  (a) 1. Is an individual, partnership, association, limited partnership or corporation that is authorized to transact business within the Commonwealth; and

  2. Maintains an office in the Commonwealth; and

  (b) 1. If a proposed contract is not for a service, meets one (1) of the following requirements:

    a. Maintains an inventory located in the Commonwealth that at the time of the bid or offer has a total value of ten thousand dollars ($10,000) or more for expendable items which are representative of the general type of commodities for which the bid or offer is submitted;

    b. Is a manufacturer that is headquartered in the Commonwealth, or;

    c. Has at least a one million dollar ($1,000,000) annual payroll in the Commonwealth and a product is made or processed from raw materials into a finished end-product by such manufacturer or an affiliate, as defined in section 1563 of the Internal Revenue Code, of the manufacturer; or

  2. If the proposed contract is for a service, has at least one hundred thousand dollars ($100,000) annual payroll in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Acceptable proof that a bidder or offeror is a Kentucky resident or a bidder or offeror who bids or offers end-products made, mined, manufactured, or grown in the Commonwealth shall be as follows:

  (a) The bidder or offeror has certified in writing, under oath, in the bid or offer, that he or she is a Kentucky resident; or

  (b) The bidder or offeror has certified in writing, under oath, in the bid or offer, that the end-product was made, manufactured, mined, or grown in Kentucky.

(2) In order to award a contract to a resident bidder or offeror using the preference provisions under this section:

  (a) The bidder or offeror offering the preference certification shall be a responsible and responsive bidder or offeror;

  (b) The bid or offer must otherwise comply with this chapter and the administrative regulations promulgated under this chapter; and

  (c) The cost of the end-product shall not be unreasonable.

(3) In the case of a request for resident bidder or offeror status, the requirements of this section shall apply to the entire solicitation. In the case of a request for end-product status, this requirement shall apply to each line item or each lot in a solicitation to which a separate, responsive bid or offer may be made.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A preference of five percent (5%) of the scoring or pricing methodology described in the applicable solicitation or bid document shall be allowed to those responsive and responsible bidders or offerors who are residents of the Commonwealth or whose products or services are made, mined, manufactured, offered, or grown in Kentucky as set forth in Sections 1 to 5 of this Act.

(2) Responsive and responsible bidders and offerors located in a state bordering Kentucky shall not be affected by the preferences allowed by this bill if that state's preference provisions result in no preference restrictions upon Kentucky vendors that submit bids or offers to their state governments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 5 of this Act shall not apply to:

(1) Noncompetitive negotiations;

(2) Any procurement conducted under the small purchase provisions of this chapter; or

(3) Any prime contractor or subcontractor providing materials or services relating to permanent improvements to real estate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A bidder or offeror shall be suspended or barred from doing business with the Commonwealth of Kentucky in accordance with administrative regulations promulgated under this chapter if the chief purchasing officer determines that the certification made by the bidder or offeror as to the resident bidder or offeror request or the origin of the end-product was filed under false pretenses and is not valid. In addition, if the bidder or offeror with the invalid certification of origin was awarded the contract, he shall pay the Commonwealth the amount by which the bid or offer based on the invalid certification exceeded the lowest responsible and responsive bid or offer that would have been selected but for the invalid certification.

(2) If a bidder or offeror does not request a preference at the time of the submission of the bid or offer, he shall neither be entitled to claim any preference against another bidder or offeror nor shall he be protected from application of another bidder or offeror's claim to a preference against his bid or offer in determining contract award.

(3) The protest provisions of KRS 45A.285 and 45A.290 shall not apply to the provisions and requirements of Sections 1 to 5 of this Act.

The Committee Substitute No. 1 to **HB 826** is as follows:

HB 826, AN ACT relating to state procurement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 5 of this Act, unless the context indicates otherwise:

(1) "Made" means to assemble, fabricate, or process component parts into a finished end-product, the value of which assembly, fabrication, processing, or research and development is a significant portion of the value of the finished end-product. What constitutes a significant portion shall be set out in each solicitation that is subject to the provisions of Sections 1 to 5 of this Act.

(2) "Manufacture" means to make or process raw materials into a finished end-product;

(3) "Mined" means any activity performed under a permit issued under KRS Chapters 350, 351, 352, and 353;

(4) "Grown" means to produce, cultivate, raise, or harvest timber, agricultural produce, or livestock on the land, or to cultivate, raise, catch, or harvest products or food from the water which results in an end-product that is locally derived from the product cultivated, raised, caught, or harvested;

(5) "End-product" means the item described in the solicitation, including all component parts, and in final form and ready for the use intended by the using agency;

(6) "Unreasonable cost" means that the best value bid or evaluated bid price exceeds by more than five percent (5%) the lowest, responsive and responsible, best value bid or evaluated bid price on the same item or end-product that is made, manufactured, or grown in other states of the United States, or in a foreign country or territory;

(7) "Resident bidder or offeror" means a bidder or offeror who is considered to be a resident of the Commonwealth, if the bidder or offeror:

- *(a) 1. Is an individual, partnership, association, limited partnership or corporation that is authorized to transact business within the Commonwealth; and*
  - *2. Maintains an office in the Commonwealth; and*
- *(b) 1. If a proposed contract is not for a service, meets one (1) of the following requirements:*

a. Maintains an inventory located in the Commonwealth that at the time of the bid or offer has a total value of ten thousand dollars ($10,000) or more for expendable items which are representative of the general type of commodities for which the bid or offer is submitted;

b. Is a manufacturer that is headquartered in the Commonwealth; or

c. Has at least a one million dollar ($1,000,000) annual payroll in the Commonwealth and a product is made or processed from raw materials into a finished end-product by such manufacturer or an affiliate, as defined in section 1563 of the Internal Revenue Code, of the manufacturer; or

2. If the proposed contract is for a service, has at least one hundred thousand dollars ($100,000) annual payroll in the Commonwealth.

SECTION 2. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) Acceptable proof that a bidder or offeror is a Kentucky resident or a bidder or offeror who bids or offers end-products made, mined, manufactured, or grown in the Commonwealth shall be as follows:

(a) The bidder or offeror has certified in writing, under oath, in the bid or offer, that he or she is a Kentucky resident; or

(b) The bidder or offeror has certified in writing, under oath, in the bid or offer, that the end-product was made, manufactured, mined, or grown in Kentucky.

(2) In order for a bidder or offeror to be awarded a contract using the preference provisions under this section:

(a) The bidder or offeror offering the preference certification shall be a responsible and responsive bidder or offeror;

(b) The bid or offer must otherwise comply with this chapter and the administrative regulations promulgated under this chapter; and

(c) The cost of the end-product shall not be unreasonable.

(3) In the case of a request for resident bidder or offeror status, the requirements of this section shall apply to the entire solicitation. In the case of a request for end-product status, this requirement shall apply to each line item or each lot in a solicitation to which a separate, responsive bid or offer may be made.

SECTION 3. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A preference of five percent (5%) of the scoring or pricing methodology described in the applicable solicitation or bid document shall be allowed to those responsive and responsible bidders or offerors who are residents of the Commonwealth or whose products or services are made, mined, manufactured, offered, or grown in Kentucky as set forth in Sections 1 to 5 of this Act.

(2) Responsive and responsible bidders and offerors located in a state bordering Kentucky shall not be affected by the preferences allowed by this bill if that state's preference provisions result in no preference restrictions upon Kentucky vendors that submit bids or offers to their state governments.

SECTION 4. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

The provisions of Sections 1 to 5 of this Act shall not apply to:

(1) Noncompetitive negotiations;

(2) Any procurement conducted under the small purchase provisions of this chapter; or

(3) Any prime contractor or subcontractor providing materials or services relating to permanent improvements to real estate.

SECTION 5. A NEW SECTION OF KRS CHAPTER 45A IS CREATED TO READ AS FOLLOWS:

(1) A bidder or offeror shall be suspended or barred from doing business with the Commonwealth of Kentucky in accordance with administrative regulations promulgated under this chapter if the chief purchasing officer determines that the certification made by the bidder or offeror as to the resident bidder or offeror request or the origin of the end-product was filed under false pretenses and is not valid. In addition, if the bidder or offeror with the invalid certification of origin was awarded the contract, he shall pay the Commonwealth the amount by which the bid or offer based on the invalid certification exceeded the lowest responsible and responsive bid or offer that would have been selected but for the invalid certification.

(2) If a bidder or offeror does not request a preference at the time of the submission of the bid or offer, he shall neither be entitled to claim any preference against another bidder or offeror nor shall he be protected from application of another bidder or offeror's claim to a preference against his bid or offer in determining contract award.

(3) The protest provisions of KRS 45A.285 and 45A.290 shall not apply to the provisions and requirements of Sections 1 to 5 of this Act.

HB 842, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.935 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows.

The General Assembly finds and declares that:

(1) The establishment of the ***position***~~[Office]~~ of the Chief Information Officer as the Commonwealth's single point of contact and spokesperson for all matters related to information technology and resources, including policies, standard setting, deployment, strategic and tactical planning, acquisition, management, and operations is necessary and in keeping with the industry trends of the private and public sectors;

(2) The appropriate use of information technology by the Commonwealth can improve operational productivity, reduce the cost of government, enhance service to customers, and make government more accessible to the public;

(3) Government-wide planning, investment, protection, and direction for information resources must be enacted to:

  (a) Ensure the effective application of information technology on state business operations;

  (b) Ensure the quality, security, and integrity of state business operations; and

  (c) Provide privacy to the citizens of the Commonwealth;

(4) The Commonwealth must provide information technology infrastructure, technical directions, and a proficient organizational management structure to facilitate the productive application of information technology and resources to accomplish programmatic missions and business goals;

(5) Oversight of large scale and government statewide systems or projects is necessary to protect the Commonwealth's investment and to ensure appropriate integration with existing or planned systems;

(6) A career development plan and professional development program for information technology staff of the executive branch is needed to provide key competencies and adequate on-going support for the information resources of the Commonwealth and to ensure that the information technology staff will be managed as a Commonwealth resource;

(7) The Commonwealth is in need of information technology advisory capacities to the Governor and the agencies of the executive cabinet;

(8) Appropriate public-private partnerships to supplement existing resources must be developed as a strategy for the Commonwealth to comprehensively meet its spectrum of information technology and resource needs;~~[and]~~

(9) ***Technological and theoretical advances in information use are recent in origin, immense in scope and complexity, and change at a rapid rate, which presents Kentucky with the opportunity to provide higher quality, more timely, and more cost-effective government services to ensure standardization, interoperability, and interconnectivity;***

(10) The sharing of information resources and technologies among executive branch state agencies is the most cost-effective method of providing the highest quality and most timely government services that would otherwise be cost-prohibitive;

(11) The ability to identify, develop, and implement changes in a rapidly moving field demands the development of mechanisms to provide for the research and development of technologies that address systems, uses, and applications; and

(12) The exercise by the chief information officer of powers and authority conferred by ***Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act***~~[KRS 61.935 to 61.938]~~ shall be deemed and held to be the performance of essential governmental functions.

SECTION 2. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 9 of this Act, unless the context requires otherwise:

(1) "Communications" or "telecommunications" means any transmission, emission, or reception of signs, signals, writings, images, and sounds of intelligence of any nature by wire, radio, optical, or other electromagnetic systems, and includes all facilities and equipment performing these functions;

(2) "Geographic information system" or "GIS" means a computerized database management system for the capture, storage, retrieval, analysis, and display of spatial or locationally defined data;

(3) "Information resources" means the procedures, equipment, and software that are designed, built, operated, and maintained to collect, record, process, store, retrieve, display, and transmit information, and associated personnel;

(4) "Information technology" means data processing and telecommunications hardware, software, services, supplies, facilities, maintenance, and training that are used to support information processing and telecommunications systems to include geographic information systems; and

(5) "Project" means a program to provide information technologies support to functions within an executive branch state agency, which should be characterized by well-defined parameters, specific objectives, common benefits, planned activities, expected outcomes and completion dates, and an established budget with a specified source of funding.

SECTION 3. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created within the Office of the Governor an agency of state government known as the Governor's Office for Technology.

(2) The Governor's Office for Technology shall be headed by the chief information officer for the Commonwealth established in Section 6 of this Act.

(3) The Governor's Office for Technology shall consist of the following six (6) executive offices, each headed by an executive director:

- *(a) Office of Geographic Information;*
- *(b) Office of Human Resource Management and Development;*
- *(c) Office of Administrative Services, consisting of the:*
  - *1. Division of Financial and Business Management; and*
  - *2. Division of Asset Management;*
- *(d) Office of Policy and Customer Relations, consisting of the:*
  - *1. Division of Planning and Architecture;*
  - *2. Division of Relationship Management; and*
  - *3. Division of Information Technology Training;*
- *(e) Office of Infrastructure Service, consisting of the:*
  - *1. Division of End User Support;*
  - *2. Division of Security Services;*
  - *3. Division of Computing Services; and*
  - *4. Division of Communication Services; and*
- *(f) Office of Consulting and Project Management, consisting of the:*
  - *1. Division of Centers of Expertise;*
  - *2. Division of Project Office and Integration;*
  - *3. Division of Human Services Systems;*
  - *4. Division of Financial Systems;*
  - *5. Division of Transportation Systems; and*
  - *6. Division of Workforce Development and General Government Systems.*

SECTION 4. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) The roles and duties of the Governor's Office for Technology shall include but not be limited to:

- *(a) Providing technical support and services to all executive agencies of state government in the application of information technology;*
- *(b) Assuring compatibility and connectivity of Kentucky's information systems;*
- *(c) Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;*
- *(d) Developing, implementing, and managing strategic information technology directions, standards, and enterprise architecture including implementing necessary management processes to assure full compliance with those directions, standards, and architecture;*
- *(e) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;*
- *(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;*
- *(g) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;*
- *(h) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with the Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;*
- *(i) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;*
- *(j) Establishing a central statewide geographic information clearinghouse to maintain map inventories, information on current and planned geographic information systems applications, information on grants*

available for the acquisition or enhancement of geographic information resources, and a directory of geographic information resources available within the state or from the federal government;

(k) Coordinating multiagency information technology projects, including overseeing the development and maintenance of statewide base maps and geographic information systems;

(l) Providing access to both consulting and technical assistance, and education and training, on the application and use of information technologies to state and local agencies;

(m) In cooperation with other agencies, evaluating, participating in pilot studies, and making recommendations on information technology hardware and software;

(n) Providing staff support and technical assistance to the Geographic Information Advisory Council, the Kentucky Information Technology Advisory Council, and the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky; and

(o) Preparing proposed legislation and funding proposals for the General Assembly that will further solidify coordination and expedite implementation of information technology systems.

(2) The Governor's Office for Technology may:

(a) Provide general consulting services, technical training, and support for generic software applications, upon request from a local government, if the chief information officer finds that the requested services can be rendered within the established terms of the federally approved cost allocation plan;

(b) Promulgate administrative regulations in accordance with KRS Chapter 13A necessary for the implementation of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(c) Solicit, receive, and consider proposals from any state agency, federal agency, local government, university, nonprofit organization, private person, or corporation;

(d) Solicit and accept money by grant, gift, donation, bequest, legislative appropriation, or other conveyance to be held, used, and applied in accordance with Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act;

(e) Make and enter into memoranda of agreement and contracts necessary or incidental to the performance of duties and execution of its powers, including, but not limited to, agreements or contracts with the United States, other state agencies, and any governmental subdivision of the Commonwealth;

(f) Accept grants from the United States government and its agencies and instrumentalities, and from any source, other than any person, firm, or corporation, or any director, officer, or agent thereof that manufactures or sells information resources technology equipment, goods, or services. To these ends, the Governor's Office for Technology shall have the power to comply with those conditions and execute those agreements that are necessary, convenient, or desirable;

(g) Purchase interest in contractual services, rentals of all types, supplies, materials, equipment, and other services to be used in the research and development of beneficial applications of information resources technologies. Competitive bids may not be required for:

1. New and emerging technologies as approved by the chief information officer or her or his designee; or

2. Related professional, technical, or scientific services, but contracts shall be submitted in accordance with KRS 45A.690 to 45A.725.

(3) Nothing in this section shall be construed to alter or diminish the provisions of KRS 171.410 to 171.740 or the authority conveyed by these statutes to the Archives and Records Commission and the Department for Libraries and Archives.

SECTION 5. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) To accomplish the work of the Governor's Office for Technology, all organizational units and administrative bodies, as defined in KRS 12.010, and all members of the state postsecondary education system, as defined in KRS 164.001, shall furnish the Governor's Office for Technology necessary assistance, resources, information, records, and advice as required.

(2) The provisions of Sections 1 to 9, 15, 20, 22, 23 and 24 of this Act shall not be construed to grant any authority over the judicial or legislative branches of state government, or agencies thereof, to the Governor's Office for Technology.

Section 6. KRS 61.936 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a position of chief information officer for the Commonwealth. This position shall be exempt from the classified service under KRS 18A.115 and from the salary limitations of KRS 64.640, and shall be bonded commensurate with cabinet secretaries under KRS 62.160. The chief information officer shall be appointed by the Governor and serve in the Governor's Executive Cabinet. The chief information officer shall report to the secretary of the Governor's cabinet concerning his or her responsibilities to provide direction, stewardship, leadership, and general oversight of information technology and information resources.[~~For purposes of this section, unless the context requires otherwise, "information technology" and "information resources" shall have the same meaning as in KRS 61.942.~~]

(2)[~~(1)~~]The chief information officer shall be the principal adviser to the Governor and the executive cabinet on information technology policy, including policy on the acquisition and management of information technology and resources.

(3)[~~(2)~~]The chief information officer shall carry out functions necessary for the efficient, effective, and economical administration of information technology and resources within the executive branch. Roles and duties of the chief information officer shall include but not be limited to:

(a)[~~ Developing strategies and policies to support and promote the effective applications of information technology within state government as a means of saving money, increasing employee productivity, and improving state services to the public, including electronic public access to information of the Commonwealth;~~

~~(b)~~] Assessing, recommending, and implementing information technology governance and organization design to include effective information technology personnel management practices;

[~~(c) Promoting effective and efficient design and operation of all major information resources management processes for executive branch agencies, including improvements to work processes;~~

~~(d) Overseeing and managing strategic information technology directions, standards, and architecture;~~]

(b)[~~(e)~~] Integrating information technology and resources plans with agency business plans;

[~~(f) Developing, implementing, and maintaining the technology infrastructure of the Commonwealth;~~]

(c)[~~(g)~~] Overseeing shared Commonwealth information technology resources and services;

(d)[~~(h)~~]Performing as the focal point and representative for the Commonwealth in information technology and related areas with both the public and private sector;

[~~(i) Facilitating and fostering applied research in emerging technologies that offer the Commonwealth innovative business solutions;~~]

(e)[~~(j)~~] Establishing appropriate partnerships and alliances to support the effective implementation of information technology projects in the Commonwealth;

(f)[~~(k)~~] Identifying information technology applications that should be statewide in scope, and ensuring that these applications are not developed independently or duplicated by individual state agencies of the executive branch;

(g)[~~(l)~~] Establishing performance measurement and benchmarking policies and procedures;

[~~(m) Reviewing and overseeing large or complex information technology projects and systems for compliance with statewide strategies, policies, and standards, including alignment with Commonwealth's business goals, investment, and other risk management policies. The chief information officer is authorized to grant or withhold approval to initiate these projects;~~]

(h)[~~(n)~~] Preparing annual reports and plans concerning the status and result of the state's specific information technology plans and submitting these annual reports and plans to the governor and the General Assembly;

[~~(o) Integrating information technology resources to provide effective and supportable information technology applications in the Commonwealth;~~] and

(i)[~~(p)~~] Managing the *Governor's Office for Technology*[~~Office of the Chief Information Officer~~] and its budget.

SECTION 7. A NEW SECTION OF KRS CHAPTER 11 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby created the Kentucky Information Technology Advisory Council to:

(a) Advise the chief information officer for the Commonwealth on approaches to coordinating information technology solutions among libraries, public schools, local governments, universities, and other public entities; and

(b) Provide a forum for the discussion of emerging technologies that enhance electronic accessibility to various publicly funded sources of information and services.

(2) The Kentucky Information Technology Advisory Council shall consist of:

(a) The state budget director or a designee;

(b) The state librarian or a designee;

(c) One (1) representative from the public universities to be appointed by the Governor from a list of three (3) persons submitted by the Council on Postsecondary Education;

(d) Three (3) citizen members from the private sector with information technology knowledge and experience appointed by the Governor;

(e) Two (2) representatives of local government appointed by the Governor;

(f) One (1) representative from the area development districts appointed by the Governor from a list of names submitted by the executive directors of the area development districts;

(g) One (1) member of the media appointed by the Governor;

(h) The executive director of the Kentucky Authority for Educational Television;

(i) The chair of the Public Service Commission or a designee;

(j) Two (2) members of the Kentucky General Assembly, one (1) from each chamber, selected by the Legislative Research Commission;

(k) One (1) representative of the Administrative Office of the Courts;

(l) One (1) representative from the public schools system appointed by the Governor;

(m) One (1) representative of the Kentucky Chamber of Commerce; and

(n) The chief information officer for the Commonwealth.

(3) Appointed members of the council shall serve for a term of two (2) years. Members who serve by virtue of an office shall serve on the council while they hold the office.

(4) Vacancies on the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(5) Members shall receive no compensation but shall receive reimbursement for actual and necessary expenses in accordance with travel and subsistence requirements established by the Finance and Administration Cabinet.

Section 8. KRS 61.958 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) There is hereby established a Geographic Information Advisory Council~~[, referred to in this section and KRS 61.959 as the "council," to the Kentucky Information Resources Management Commission]~~ to advise the ***chief information officer***~~[Governor, the General Assembly, the Judicial Branch, and the Kentucky Information Resources Management Commission]~~ on issues ***relating***~~[as they relate]~~ to geographic information and geographic information systems.

(2) The council shall establish and adopt policies and procedures that assist state and local jurisdictions in developing, deploying, and leveraging geographic information resources and geographic information systems technology for the purpose of improving public administration.

(3) The council shall closely coordinate with users of geographic information systems to establish policies and procedures that insure the maximum use of geographic information by minimizing the redundancy of geographic information and geographic information resources.

(4) The Geographic Information Advisory Council shall consist of twenty-six (26) members and one (1) legislative liaison. The members shall be knowledgeable in the use and application of geographic information systems technology and shall have sufficient authority within their organizations to influence the implementation of council recommendations.

(a) The council shall consist of:

1. The secretary of the Transportation Cabinet or his designee;
2. The secretary of the Cabinet for Health Services and Families and Children or his designee;
3. The director of the Kentucky Geological Survey or his designee;
4. The secretary of the Revenue Cabinet or his designee;
5. The ***chief information officer***~~[commissioner of the Department of Information Systems]~~ or ***her or*** his designee;
6. The secretary of the Economic Development Cabinet or his designee;
7. The commissioner of the Department for Local Government or his designee;
8. The secretary of the Justice Cabinet or his designee;
9. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council on Postsecondary Education;
10. The adjutant general of the Department of Military Affairs or his designee;
11. The commissioner of the Department of Education or his designee;
12. The secretary of the Natural Resources and Environmental Protection Cabinet or his designee;
13. The commissioner of the Department of Agriculture or his designee;
14. The secretary of the Public Protection and Regulation Cabinet or his designee;
15. The secretary of the Tourism Development Cabinet or his designee;
16. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky League of Cities;
17. Two (2) members appointed by the Governor from a list of six (6) persons submitted by the president of the Kentucky Association of Counties;

18. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chapter of the American Planning Association;
19. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Chamber of Commerce;
20. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Association of Land Surveyors;
21. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Society of Professional Engineers;
22. One (1) member appointed by the Governor from a list of three (3) persons submitted by the chairman of the Kentucky Board of Registered Geologists; and
23. One (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Council of Area Development Districts.

(b) The council shall have one (1) nonvoting legislative liaison, to be appointed by the Legislative Research Commission.

(5) The council shall select from its membership a chairman and any other officers it considers essential. The council may have committees and subcommittees as determined by the council or an executive committee, if an executive committee exists.

(6) A member of the council shall not:

(a) Be an officer, employee, or paid consultant of a business entity that has, or of a trade association for business entities that has, a substantial interest in the geographic information industry and is doing business in the Commonwealth;

(b) Own, control, or have directly or indirectly, more than ten percent (10%) interest in a business entity that has a substantial interest in the geographic information industry;

(c) Be in any manner connected with any contract or bid for furnishing any governmental body of the Commonwealth with geographic information systems, the computers on which they are automated, or a service related to geographic information systems;

(d) Be a person required to register as a lobbyist because of activities for compensation on behalf of a business entity that has, or on behalf of a trade association of business entities that have substantial interest in the geographic information industry;

(e) Accept or receive money or another thing of value from an individual, firm, or corporation to whom a contract may be awarded, directly or indirectly, by rebate, gift, or otherwise; or

(f) Be liable to civil action or any action performed in good faith in the performance of duties as a council member.

(7) Those council members specified in subsection (4)(a) of this section who serve by virtue of an office shall serve on the council while they hold that office.

(8) Appointed members of the council shall serve for a term of four (4) years. Vacancies in the membership of the council shall be filled in the same manner as the original appointments. If a nominating organization changes its name, its successor organization having the same responsibilities and purposes shall be the nominating organization.

(9) The council shall have no funds of its own, and council members shall not receive compensation of any kind from the council.

(10) A majority of the members shall constitute a quorum for the transaction of business. Members' designees shall have voting privileges at council meetings.

Section 9. KRS 61.959 is repealed, reenacted as a new section of KRS Chapter 11, and amended to read as follows:

(1) The ***Geographic Information Advisory*** Council's duties shall include the following:

(a) Overseeing the development and adoption of policies and procedures related to geographic information and geographic information systems;

(b) Overseeing the development of a strategy for the implementation and funding of a statewide base map and geographic information system;

(c) Overseeing the development and recommending standards on geographic information and geographic information systems for inclusion in the statewide architecture;

(d) Overseeing the development and delivery of a statewide geographic information plan and annually reporting to the Governor, the General Assembly, the Judicial Branch, and the ***chief information officer***~~[Kentucky Information Resources Management Commission]~~;

(e) Overseeing the development of the geographic information systems training and education plan;

  (f) Overseeing the assessment of state agency plans for geographic information systems standards compliance;
  (g) Overseeing the development of operating policies and procedures for the management of the council and any standing or ad hoc committees and associated advisory groups;
  (h) Promoting collaboration and the sharing of data and data development, as well as other aspects of geographic information systems; and
  (i) Overseeing the implementation of a pilot project to study the advantages and resources of geographic information system technology.

(2) The Office of Geographic Information shall provide necessary staff support services to the council. All cabinets, departments, divisions, agencies, and officers of the Commonwealth shall furnish the council necessary assistance, resources, information, records, or advice as it may require to fulfill its duties.

Section 10. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
  1. The Governor.
  2. Lieutenant Governor.
  3. Department of State.
    (a) Secretary of State.
    (b) Board of Elections.
    (c) Registry of Election Finance.
  4. Department of Law.
    (a) Attorney General.
  5. Department of the Treasury.
    (a) Treasurer.
  6. Department of Agriculture.
    (a) Commissioner of Agriculture.
    (b) Kentucky Council on Agriculture.
  7. Superintendent of Public Instruction.
  8. Auditor of Public Accounts.
  9. Railroad Commission.

II. Program cabinets headed by appointed officers:
  1. Justice Cabinet:
    (a) Department of State Police.
    (b) Department of Criminal Justice Training.
    (c) Department of Corrections.
    (d) Department of Juvenile Justice.
    (e) Office of the Secretary.
    (f) Offices of the Deputy Secretaries.
    (g) Office of General Counsel.
    (h) Division of Kentucky State Medical Examiners Office.
    (i) Parole Board.
    (j) Kentucky State Corrections Commission.
    (k) Commission on Correction and Community Service.
  2. Education, Arts, and Humanities Cabinet:

(a) Department of Education.
  (1) Kentucky Board of Education.
  (2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
  (a) Environmental Quality Commission.
  (b) Kentucky Nature Preserves Commission.
  (c) Department for Environmental Protection.
  (d) Department for Natural Resources.
  (e) Department for Surface Mining Reclamation and Enforcement.
  (f) Office of Legal Services.
  (g) Office of Information Services.
4. Transportation Cabinet:
  (a) Department of Highways.
  (b) Department of Vehicle Regulation.
  (c) Department of Administrative Services.
  (d) Department of Fiscal Management.
  (e) Department of Rural and Municipal Aid.
  (f) Office of General Counsel.
  (g) Office of Public Affairs.
  (h) Office of Personnel Management.
  (i) Office of Minority Affairs.
  (j) Office of Environmental Affairs.
  (k) Office of Policy and Budget.
5. Cabinet for Economic Development:
  (a) Department of Administration and Support.
  (b) Department of Job Development.
  (c) Department of Financial Incentives.
  (d) Department of Community Development.
  (e) Tobacco Research Board.
  (f) Kentucky Economic Development Finance Authority.
6. Public Protection and Regulation Cabinet:
  (a) Public Service Commission.
  (b) Department of Insurance.
  (c) Department of Housing, Buildings and Construction.

(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.
(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g)[~~Department of Information Systems.~~
~~(h)~~] State Property and Buildings Commission.
(h)[~~(i)~~] Kentucky Pollution Abatement Authority.
(i)[~~(j)~~] Kentucky Savings Bond Authority.
(j)[~~(k)~~] Deferred Compensation Systems.
(k)[~~(l)~~] Office of Equal Employment Opportunity Contract Compliance.
(l)[~~(m)~~] Office of Capital Plaza Operations.
(m)[~~(n)~~] County Officials Compensation Board.
(n)[~~(o)~~] Kentucky Employees Retirement Systems.
(o)[~~(p)~~]Commonwealth Credit Union.

(p)[~~(q)~~]State Investment Commission.
(q)[~~(r)~~] Kentucky Housing Corporation.
(r)[~~(s)~~] Governmental Services Center.
(s)[~~(t)~~] Kentucky Local Correctional Facilities Construction Authority.
(t)[~~(u)~~] Kentucky Turnpike Authority.
(u)[~~(v)~~] Historic Properties Advisory Commission.
(v)[~~(w)~~] Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor-Management Relations and Mediation.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.

    (j) The Kentucky Job Training Coordinating Council.
    (k) Office of General Counsel.
    (l) Office of Communication Services.
    (m) Office of Development and Industry Relations.
    (n) Office of Workforce Analysis and Research.
    (o) Office for Administrative Services.
    (p) Office for Policy and Budget.
    (q) Office of Personnel Services.
    (r) Unemployment Insurance Commission.
  14. Personnel Cabinet:
    (a) Office of Administrative and Legal Services.
    (b) Department for Personnel Administration.
    (c) Department for Employee Relations.
    (d) Kentucky Public Employees Deferred Compensation Authority.
    (e) Kentucky Kare.
    (f) Division of Performance Management.
    (g) Division of Employee Records.
    (h) Division of Staffing Services.
    (i) Division of Classification and Compensation.
    (j) Division of Employee Benefits.
    (k) Division of Communications and Recognition.
III. Other departments headed by appointed officers:
  1. Department of Military Affairs.
  2. Council on Postsecondary Education.
    (a) Kentucky Commission on Community Volunteerism and Service.
  3. Department for Local Government.
  4. Kentucky Commission on Human Rights.
  5. Kentucky Commission on Women.
  6. Department of Veterans' Affairs.
  7. Kentucky Commission on Military Affairs.
  8. ***The Governor's Office for Technology***~~[Office of the Chief Information Officer]~~.

Section 11. KRS 12.023 is amended to read as follows:

The following organizational units and administrative bodies shall be attached to the Office of the Governor:

(1) Council on Postsecondary Education;
(2) Department of Military Affairs;
(3) Department for Local Government;
(4) Kentucky Commission on Human Rights;
(5) Kentucky Commission on Women;
(6) Kentucky Commission on Military Affairs;
(7) Coal Marketing and Export Council;
(8) Governor's Office of Child Abuse and Domestic Violence Services;
(9) ***Governor's Office for Technology***~~[Office of the Chief Information Officer]~~; and
(10) Office of Coal Marketing and Export.

Section 12. KRS 17.131 is amended to read as follows:

(1) There is hereby established the Kentucky Unified Criminal Justice Information System, referred to in this chapter as the "system." The system shall be a joint effort of the criminal justice agencies and the courts. Notwithstanding any statutes, administrative regulations, and policies to the contrary, if standards and technologies other than those set ***by the Governor's Office for Technology***~~[out in KRS 61.940 to 61.953]~~ are required, the Commonwealth's chief information

officer shall review, expedite, and grant appropriate exemptions to effectuate the purposes of the unified criminal justice information system. Nothing in this section shall be construed to hamper any public officer or official, agency, or organization of state or local government from furnishing information or data that they are required or requested to furnish and which they are allowed to procure by law, to the General Assembly, the Legislative Research Commission, or a committee of either. For the purposes of this section, "criminal justice agencies" include all departments of the Justice Cabinet, the Unified Prosecutorial System, Commonwealth's attorneys, county attorneys, the Transportation Cabinet, the Cabinet for Health Services, and any agency with the authority to issue a citation or make an arrest.

(2) The program to design, implement, and maintain the system shall be under the supervision of the Uniform Criminal Justice Information System Committee of the Criminal Justice Council. The membership of this committee shall be determined by the council, upon the recommendation of the Governor's chief information officer, who shall chair the committee.

(3) The committee shall be responsible for recommending standards, policies, and other matters to the secretary of justice for promulgation of administrative regulations in accordance with KRS Chapter 13A to implement the policies, standards, and other matters relating to the system and its operation.

(4) The committee shall submit recommendations to the Criminal Justice Council and the secretary of justice for administrative regulations to implement the uniform policy required to operate the system. The committee shall implement the uniform policy.

(5) The uniform policy shall include a system to enable the criminal justice agencies and the courts to share data stored in each other's information systems. Initially, the uniform policy shall maximize the use of existing databases and platforms through the use of a virtual database created by network linking of existing databases and platforms among the various departments. The uniform policy shall also develop plans for the new open system platforms before the existing platforms become obsolete.

(6) The committee shall be responsible for recommending to the Criminal Justice Council and the secretary of justice any necessary changes in administrative regulations necessary to implement the system. The committee shall also recommend to the Criminal Justice Council, the Chief Justice, and the secretary of justice recommendations for statutory additions or changes necessary to implement and maintain the system. The secretary shall be responsible for reporting approved statutory recommendations to the Governor, the Chief Justice, the Legislative Research Commission, and appropriate committees of the General Assembly.

(7) The chair of the committee shall report annually to the Criminal Justice Council on the status of the system.

(8) All criminal justice agencies shall follow the policies established by administrative regulation for the exchange of data and connection to the system.

(9) The committee shall review how changes to existing criminal justice agency applications impact the new integrated network. Changes to criminal justice agency applications that have an impact on the integrated network shall be coordinated through and approved by the committee.

(10) Any future state-funded expenditures by a criminal justice agency for computer platforms in support of criminal justice applications shall be reviewed by the committee.

(11) Any criminal justice agency or officer that does not participate in the criminal justice information system may be denied access to state and federal grant funds.

Section 13. KRS 42.014 is amended to read as follows:

(1) There is established within the cabinet the Office of Legal and Legislative Services, the Office of Management and Budget, the Office of Financial Management and Economic Analysis, the Office of Capital Plaza Operations, and the Office of the Controller, each of which offices shall be headed by an executive director, the Department for Administration, ***and*** the Department for Facilities Management,[~~, and the Department of Information Systems~~] each of which shall be headed by a commissioner appointed by the secretary, upon the approval of the Governor, and responsible to the secretary. Each of these departments may have at least one (1) major assistant not in the classified service.

(2) The secretary shall establish the internal organization and assignment of functions which are not established by statute, and shall divide the cabinet into the offices, bureaus, divisions, or other units the secretary deems necessary to perform the functions, powers, and duties of the cabinet, subject to the provisions of KRS Chapter 12.

Section 14. KRS 45.251 is amended to read as follows:

(1) Expenditures shall be limited to the amounts and purposes for which appropriations are made. All expenditures shall be reflected in the unified and integrated system of accounts as provided by KRS 45.305.

(2) The Finance and Administration Cabinet shall prescribe all information technology standards, system attributes, and components to be used in, or in conjunction with, the unified accounting system. The components must be consistent with Commonwealth standards contained within the information technology architecture, as provided ***by the Governor's Office for Technology***[~~in KRS 61.950~~].

(3) The Governor, the Chief Justice, and the Legislative Research Commission shall designate the officer or employee

authorized to approve advices of employment, purchase orders and contracts, and requisitions for reservation of funds, and no advice, order, contract, or requisition shall be honored as a commitment statement unless the designation has been conveyed to the Finance and Administration Cabinet.

(4) The Finance and Administration Cabinet may approve for payment any expenditure presented by a budget unit, provided that the Finance and Administration Cabinet is able to determine that the expenditure is to satisfy a liability of the Commonwealth of Kentucky created on behalf of that budget unit in fulfilling the governmental function assigned to that budget unit and that the expenditure is being made from the unexpended balance of a proper allotment.

(5) Subsidiary records shall be maintained to report the financial operation and condition of each budget unit. These subsidiary records shall be compatible with the unified accounting system prescribed by subsection (1) of this section and by KRS 45.305, and may be on the accrual basis or cash basis. Expenditures may be by prior encumbrances or by straight disbursements. The subsidiary records may be maintained by the Finance and Administration Cabinet and by the budget unit involved. When a budget unit is authorized to maintain subsidiary records, the Finance and Administration Cabinet shall have authority to prescribe the accounting and preauditing procedures. The unified system of accounts shall conform to accepted management and accounting principles.

Section 15. KRS 45.253 is amended to read as follows:

(1) Revolving accounts may be established by appropriation in a branch budget bill to finance activities which are self-supporting in whole or in part.

(2) Trust and agency accounts may be established by a branch budget bill to receive and disburse contributions, gifts, donations, devises, and federal appropriations, and, when authorized by law, by depositing all of the fees (which include fees for maintenance in state institutions, incidental fees, tuition fees, fees for board and room, athletics, and student activities), rentals, admittance, sales, licenses collected by law, subventions, and other miscellaneous receipts of budget units.

(3) The head of the budget unit or other responsible fiscal agent of the unit for which a revolving, trust, or agency account has been established shall deposit with the State Treasury all receipts of the character above described, and the Finance and Administration Cabinet shall credit all receipts to the budget unit and shall keep separate accounting for each account so established.

(4) The amounts credited to any revolving, trust, or agency account so provided, shall be held available for disbursement for the purpose provided by law and shall not be diverted to any other purpose. Revolving, trust, or agency accounts shall be subject to withdrawal from the State Treasury by the head of each budget unit when actually needed, on requisition to the Finance and Administration Cabinet in the same manner provided by law as other state funds are withdrawn. Funds received from the federal government in the form of grants or otherwise may be expended for the purpose intended even though received in a fiscal year other than that in which the related original encumbrance or expenditure was incurred. Trust and agency funds shall be allotted before an expenditure is made; and the secretary of the Finance and Administration Cabinet may withhold allotment of general fund appropriations to the extent trust and agency funds are available.

(5) Subject to prior approval by the secretary of the Finance and Administration Cabinet, the Chief Justice, and the Legislative Research Commission for their respective branches, any budget unit which, as an incident to its authorized duties and functions, furnishes requested services or materials to any persons outside state government, where such services or materials are not required by law to be furnished gratuitously, may charge such persons an amount not to exceed the total expense to the budget unit of the services or materials furnished. The receipts from the approved charges shall be credited to the surplus account of the general fund. Payroll deductions for the Kentucky State Police legal fund shall be made without any service fees or charges.

(6) The ***Governor's Office for Technology***[~~Department of Information Systems~~] may charge any agency of local government an amount, not to exceed the total expense to the department, for services rendered or materials furnished at the request of the local government agency, unless the services or materials are required by law to be furnished gratuitously. The receipts from the authorized charges shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***[~~Department of Information Systems'~~] operating account.

(7) All receipts which accrue as the result of the ***Governor's Office for Technology's***[~~Department of Information Systems'~~] providing on-line computer access to public records by nongovernment entities shall be deposited in the State Treasury and credited to the trust and agency fund, ***the Governor's Office for Technology's***[~~Department of Information Systems'~~] operating account.

Section 16. KRS 45.750 is amended to read as follows:

(1) As used in KRS 45.760 to 45.810:

(a) "Committee" means the Capital Projects and Bond Oversight Committee.

(b) "Capital construction item" means:

1. The construction, reconstruction, acquisition, and structural maintenance of buildings;

2. The installation of utility services, including roads and sewers;
3. The acquisition or improvement of real property;
4. The purchase and installation initially or during major renovation of equipment, facilities, and furnishings of a permanent nature for buildings;
5. The acquisition of any building to be occupied by any:
    a. Subdivision of state government as defined in KRS 12.010 or enumerated in KRS 12.020;
    b. Municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis; and
    c. Institution of higher education.

(c) "Lease" means any lease, lease-purchase, or lease with an option to purchase of any real property space occupied by:

1. Any entity listed in paragraph (b)5. of this subsection;
2. The legislative branch; or
3. The judicial branch when leased from a private sector landlord.

(d) "Equipment" means:

1. Any major item of equipment, including aircraft;
2. Any movable furnishing, appurtenance, or other equipment, necessary to make a building operable; and
3. Equipment purchased or otherwise acquired, or equipment to be purchased or otherwise to be acquired, under a lease or lease-purchase contract or agreement or an arrangement equivalent to a lease or lease-purchase contract or agreement.

(e) "System" means any computer or telecommunications system, as defined in an administrative regulation which shall be promulgated by the ***Governor's Office for Technology***~~[Kentucky Information Resources Management Commission]~~.

(f) "Capital projects" means, regardless of the source of cash or other consideration:

1. Any capital construction item, or any combination of capital construction items necessary to make a building or utility installation complete, estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration;
2. Any lease of real property space with an annual rental cost exceeding two hundred thousand dollars ($200,000);
3. The use allowance paid by the judicial branch for a real property space pursuant to KRS 26A.090(2) and 26A.115 when the use allowance for the space exceeds two hundred thousand dollars ($200,000) on an annual basis;
4. Any item of equipment estimated to cost one hundred thousand dollars ($100,000) or more in cash or other consideration;
5. Any lease of an item of movable equipment if the annual cost of the lease is one hundred thousand dollars ($100,000) or more or if the total cost of the lease-purchase or lease with an option to purchase is one hundred thousand dollars ($100,000) or more; and
6. Any system estimated to cost four hundred thousand dollars ($400,000) or more in cash or other consideration.

(g) "Emergency repair, maintenance, or replacement project" means the maintenance, repair, or reconstruction of a capital construction project or the maintenance, repair, or replacement of a major item of equipment that is:

1. Necessitated by injury or damage resulting from a disaster; or
2. Necessary to maintain government operations or to prevent or minimize injury or damage that could reasonably be expected to result from an impending disaster; or
3. Necessitated by an unforeseen mechanical breakdown, electrical breakdown, or structural defect that must be corrected to make a facility or item of equipment usable.

(h) "Disaster" means a fire, flood, tornado, other natural disaster, riot, enemy attack, sabotage, explosion, power failure, energy shortage, transportation emergency, or other man-caused disaster.

(i) "Capital construction funds" means any funds used for capital construction, including, but not limited to, appropriated capital construction funds, agency funds, federal funds, private funds, or funds from any source held by an agency for management or investment purposes.

(j) "Entity head" means the Chief Justice of the Supreme Court, the President of the Senate and the Speaker of the House of Representatives, the secretary of the Finance and Administration Cabinet, the president of any university which complies with KRS 164A.585, 164A.595, and 164A.600, the board of trustees of the Kentucky Employees Retirement System, the board of trustees of the Teachers' Retirement System of the State of Kentucky, the board of directors of the Kentucky Higher Education Student Loan Corporation, the board of directors of the Kentucky Lottery Corporation, or the board of directors of the Kentucky Housing Corporation.

(2) Except as provided in subsection (3) of this section, KRS 45.760 to 45.810 shall apply to capital projects and bonds for use by:

(a) The state government;

(b) One of its departments or agencies, as defined in KRS 12.010 or enumerated in KRS 12.020;

(c) A municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, and Kentucky Housing Corporation; and

(d) Institutions of higher education.

(3) KRS 45.760 to 45.810 shall not apply to:

(a) Capital projects or bonds used directly in or for the construction or maintenance of roads, including, but not limited to, bulldozers, graders, earth movers, and real estate purchased for rights-of-way; and

(b) Political subdivisions, except for those defined in KRS 12.010, enumerated in KRS 12.020, or created as a municipal corporation which exercises its authority on a statewide basis including, but not limited to, the Kentucky Employees Retirement System, Teachers' Retirement System of the State of Kentucky, Kentucky Higher Education Student Loan Corporation, Kentucky Lottery Corporation, Kentucky Housing Corporation, or any entity with a governing body whose membership is substantially similar to the membership of the governing body of a municipal corporation which exercises its authority on a statewide basis. However, the provisions of KRS 45.750 to 45.810 shall not apply to acquisition or maintenance of any building or land which is purchased as a legal investment by any of the state retirement systems, which is not to be occupied by the retirement system, and which is financed solely with those assets of the retirement system used for investment purposes.

Section 17. KRS 61.8715 is amended to read as follows:

The General Assembly finds an essential relationship between the intent of this chapter and that of KRS 171.410 to 171.740, dealing with the management of public records, and of ***Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act***[~~KRS 61.940 to 61.957~~], dealing with the coordination of strategic planning for computerized information systems in state government; and that to ensure the efficient administration of government and to provide accountability of government activities, public agencies are required to manage and maintain their records according to the requirements of these statutes. The General Assembly further recognizes that while all government agency records are public records for the purpose of their management, not all these records are required to be open to public access, as defined in this chapter, some being exempt under KRS 61.878.

Section 18. KRS 65.7623 is amended to read as follows:

(1) There is hereby created the Commercial Mobile Radio Service Emergency Telecommunications Board of Kentucky, the "CMRS Board," consisting of eight (8) members, appointed by the Governor as follows: three (3) members shall be employed by or representative of the interest of CMRS providers; one (1) member shall be a mayor of a city of the first or second class or urban-county government or their designee containing a public safety answering point; one (1) nonvoting member shall be appointed from a list of local exchange landline telephone companies' representatives submitted by the Kentucky Telephone Association; and one (1) member shall be appointed from lists of candidates submitted to the Governor by the Kentucky Emergency Number Association and the Association of Public Communications Officials. The commissioner of the State Police, or the commissioner's designee, and the CMRS emergency telecommunications administrator also shall be members of the board. Any vacancy on the board shall be filled in the same manner as the original appointment.

(2) The commissioner and administrator shall serve by virtue of their office. The other members shall be appointed no later than August 15, 1998, for a term of four (4) years and until their successors are appointed and qualified, except that of the first appointments, one (1) shall be for a term of one (1) year, one (1) shall be for a term of two (2) years, one (1) for a term of three (3) years, and two (2) shall be for a term of four (4) years.

(3) In addition to the administrator, appointed by the Governor under KRS 65.7625, and other staff authorized under KRS 65.7629, the Finance and Administration Cabinet shall provide staff services and carry out administrative duties and functions as directed by the board. The board shall be attached to the ***Governor's Office for Technology***[~~Finance and Administration Cabinet~~] for administrative purposes only and shall operate as an independent entity within state government.

(4) The board members shall serve without compensation but shall be reimbursed in accordance with KRS 45.101 for expenses incurred in connection with their official duties as members of the board.

(5) All administrative costs and expenses incurred in the operation of the board, including payments under subsection (4) of this section, shall be paid from that portion of the CMRS fund that is authorized under KRS 65.7631 to be used by the board for administrative purposes.

Section 19. KRS 156.666 is amended to read as follows:

(1) There is established the Council for Education Technology which shall be an advisory group attached to the Kentucky Board of Education. The council shall develop a master plan for education technology.

(2) The council shall consist of the ***chief information officer***~~[Commissioner of the Department of Information Systems]~~, the Secretary of the Education, Arts, and Humanities Cabinet, and the president of the Council on Postsecondary Education who shall serve as ex officio voting members and eight (8) voting members appointed by the Governor within thirty (30) days after April 3, 1992. The members shall be as follows:

- (a) One (1) member of the Kentucky Board of Education;
- (b) One (1) member of the House of Representatives;
- (c) One (1) member of the Senate; and
- (d) Five (5) citizens of the Commonwealth.

A majority of the membership present at any meeting shall constitute a quorum for the official conduct of business.

(3) Members shall be appointed for four (4) year terms and may be reappointed. The initial members of the board shall be appointed as follows: two (2) members shall be appointed for terms of two (2) years; two (2) members shall be appointed for terms of three (3) years; and four (4) members shall be appointed for terms of four (4) years. Members shall receive no compensation but may be reimbursed for actual and necessary expenses in accordance with state laws and regulations.

(4) Terms of members serving pursuant to KRS 156.665 shall terminate on April 3, 1992.

(5) Immediately upon receiving notice of the appointment of all members, the chief state school officer shall call an organizational meeting. At this meeting the chief state school officer shall preside as temporary chairman, and the council shall elect from among the members a chairman and any other officers it deems necessary, and define the duties of the officers.

(6) Meetings shall be held at least two (2) times per year at a time and place designated by the chairman. The Department of Education shall provide staff support for the council.

(7) The duties and responsibilities of the council shall include, but not be limited to, the following:

- (a) Developing a long-range master plan for the efficient and equitable use of technology at all levels from primary school through higher education, including vocational and adult education. The plan shall focus on the technology requirements of classroom instruction, literacy laboratories, student record management, financial and administrative management, distance learning, and communications as they relate to the Commonwealth's outcome goals for students as described in KRS 158.6451;
- (b) Creating, overseeing, and monitoring a well-planned and efficient statewide network of technology services designed to meet the educational and informational needs of the schools;
- (c) Working with private enterprise to encourage the development of technology products specifically designed to answer Kentucky's educational needs;
- (d) Encouraging an environment receptive to technological progress in education throughout the Commonwealth;
- (e) Recommending a policy governing the granting of right of ways for the laying of fiber optic cable in a manner to insure that all of Kentucky's citizens are served equitably, that the fiber optic system is available for educational technology purposes, and that the private and public sectors are partners in the venture; and
- (f) Receiving, holding, investing, and administering all funds received by the council for the purpose of carrying out its duties and responsibilities, as set out in this section. These funds shall be spent with the aim of achieving equality of education throughout the Commonwealth.

Section 20. KRS 171.420 is amended to read as follows:

The State Archives and Records Commission, is hereby created and shall be a seventeen (17) member body constituted as follows: The state librarian or his designee, who shall be the chairman of the commission, secretary of the Education, Arts, and Humanities Cabinet or his designee, the Auditor of Public Accounts or his designee, the Chief Justice of the Supreme Court or his designee, the director of the Legislative Research Commission or his designee, the Attorney General or his designee, the director of the Office for Policy and Management or his designee, the ***chief information officer***~~[commissioner of the Department of Information Systems]~~ or ***her or*** his designee, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the University of Kentucky, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Historical Society, one (1) member appointed by the Governor from a list of three (3) persons submitted by the president of the Kentucky Library Association, one (1) member appointed by the Governor from a list of seven (7) persons with one (1) name submitted by each of the presidents of the state universities and colleges, four (4) citizens-at-large, and one (1) member appointed by the Governor from a list of three (3) persons, with one (1) name submitted by each of the presidents of the Kentucky League of Cities, the Kentucky Association of Counties, and the Kentucky Association of School Administrators. Vacancies shall be filled by the Governor in the same manner as initial appointments are made. All members shall serve for a term of four (4) years, provided that one (1) of the initial appointments shall be for a term of four (4) years, one (1) for three (3) years, one (1) for two (2) years, and one (1) for one (1) year. The commission shall advise the Department for Libraries and Archives on matters relating to archives and records management. The commission shall have the authority to review and approve schedules for retention and destruction of records submitted by state and local agencies. In all cases, the commission shall determine questions which relate to destruction of public records, and their decision shall be binding on the parties concerned and final, except that the commission may reconsider or modify its actions upon the agreement of a simple majority of the membership present and voting.

Section 21. KRS 186A.025 is amended to read as follows:

(1) (a) The Finance and Administration Cabinet shall have full responsibility and authority for day-to-day administration of the automated system described by this chapter; and

(b) May request the assistance of any cabinet or department of state government in carrying out its responsibilities under this chapter.

(2) The ***Governor's Office for Technology***~~[Department of Information Systems]~~ shall assure, to the extent feasible, twenty-four (24) hour, year-round information support to the Department of State Police, and to other law enforcement agencies state and nationwide, regarding vehicles registered and, when required, titled in this state.

Section 22. KRS 186A.040 is amended to read as follows:

(1) The Department of Vehicle Regulation shall provide and receive information on the insurance status of vehicles registered in the Commonwealth of Kentucky. The department shall provide appropriate insurance information to the ***Governor's Office for Technology***~~[Department of Information Systems]~~ for inclusion in the AVIS database.

(2) Upon notification to the Department of Vehicle Regulation from an insurance company of cancellation or nonrenewal of a policy pursuant to KRS 304.39-085, the department shall immediately notify the insured. Notification to the insured shall state that the insured's policy is no longer valid and that the insured shall have thirty (30) days to show proof of insurance to the department or the county clerk. The department shall further inform the insured that if evidence of insurance is not received within thirty (30) days the department shall revoke the registration of the motor vehicle until:

(a) The person presents proof of insurance to the department or county clerk and pays the reinstatement fee required by KRS 186.180;

(b) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the inoperable condition of the motor vehicle;

(c) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that the failure to maintain motor vehicle insurance on the vehicle specified in the department's notification is the result of the seasonal nature of the vehicle. The affidavit shall explain that when the vehicle is out of dormancy and when the seasonal use of the vehicle is resumed, the proper security will be obtained; or

(d) The person presents proof in the form of an affidavit stating, under penalty of perjury as set forth in KRS 523.030, that he or she requires a registered motor vehicle in order to carry out his or her employment and that the motor vehicle that he or she drives during the course of his or her employment meets the security requirement of subtitle 39 of KRS Chapter 304. The person shall also declare in the affidavit that he or she will operate a motor vehicle only in the course of his or her employment. If a person has his or her motor vehicle registration revoked in accordance with this subsection three (3) times within any twelve (12) month period, the revocations shall constitute a violation of KRS 304.39-080. The department shall notify the county attorney to begin prosecution for violation of subtitle 39 of KRS Chapter 304.

(3) The Department of Vehicle Regulation shall be responsible for notification to the appropriate county attorney that a motor vehicle is not properly insured, if the insured does not respond to notification set out by subsection (2) of this section. The notice that the department gives to the county attorney in accordance with subsection (2) of this section shall include a certified copy of the person's driving record which shall include:

(a) The notice that the department received from an insurance company that a person's motor vehicle insurance policy has been canceled or has not been renewed; and

(b) A dated notice that the department sent to the person requiring the person to present proof of insurance to the department or the county clerk.

Upon notification by the department, a county attorney shall immediately begin prosecution of the person who had his or her motor vehicle registration revoked three (3) times within any twelve (12) month period in accordance with subsection (2) of this section.

(4) The certified copies sent by the department described in subsection (3) of this section, shall be prima facie evidence of a violation of KRS 304.39-080.

(5) If the insured provides proof of insurance to the department or the clerk within the thirty (30) day notification period, the department shall ensure action is taken to denote a valid insurance policy is in force.

Section 23. KRS 186A.285 is amended to read as follows:

(1) No person shall, without prior specific written approval of the commissioner of the Department of Vehicle Regulation and the ***chief information officer***[~~commissioner of the Department of Information Systems~~], connect with the automated vehicle registration and titling system, directly or indirectly, by wire, electronic, electromagnetic induction, systemic, or any other means, any device, system or apparatus capable of putting information or electronic signals into, or receiving information or electronic signals from, or blocking, diverting, or altering transmission of data or signals within, the automated vehicle registration and titling system, its components, and its communications network.

(2) This section does not apply to or prohibit connection of devices or systems to the automated vehicle registration and titling system by persons who are acting in accordance with a contract or agreement with the Commonwealth of Kentucky, which in addition to any other required approval, has been approved in writing by the commissioner of the Department of Vehicle Regulation and the ***chief information officer***[~~commissioner of the Department of Information Systems~~].

Section 24. KRS 194B.102 is amended to read as follows:

(1) There is hereby created the "Statewide Strategic Planning Committee for Children in Placement" which is administratively attached to the Department for Social Services. The committee shall be composed of the following:

  (a) Members who shall serve by virtue of their positions: the commissioner of the Department for Social Services, the commissioner of the Department for Public Health, the commissioner of the Department for Mental Health and Mental Retardation Services, the commissioner for the Department for Medicaid Services, the commissioner of the Department for Social Insurance, the commissioner of the Department of Juvenile Justice, the commissioner of the Department of Education, the executive director of the Administrative Office of the Courts, or their designees; and

  (b) One (1) foster parent selected by the statewide organization for foster parents, one (1) District Judge selected by the Chief Justice of the Kentucky Supreme Court, one (1) parent of a child in placement at the time of appointment to be selected by the secretary of the Cabinet for Families and Children, one (1) youth in placement at the time of the appointment to be selected by the secretary of the Cabinet for Families and Children, and one (1) private child care provider selected by the statewide organization for private child care providers. These members shall serve a term of two (2) years, and may be reappointed.

(2) The Statewide Strategic Planning Committee for Children in Placement shall, by July 1, 1999, develop a statewide strategic plan for the coordination and delivery of care and services to children in placement and their families. The plan shall be submitted to the Governor, the Chief Justice of the Supreme Court, and the Legislative Research Commission on or before July 1, 1999, and each July 1 thereafter.

(3) The strategic plan shall, at a minimum, include:

  (a) A mission statement;

  (b) Measurable goals;

  (c) Principles;

  (d) Strategies and objectives; and

  (e) Benchmarks.

(4) The planning horizon shall be three (3) years. The plan shall be updated on an annual basis. Strategic plan updates shall include data and statistical information comparing plan benchmarks to actual services and care provided.

(5) The Statewide Strategic Planning Committee for Children in Placement shall, in consultation with the commissioner and the statewide placement coordinator as provided for in KRS 199.801, establish a statewide facilities and services plan that identifies the location of existing facilities and services for children in placement, identifies unmet needs, and develops strategies to meet the needs. The planning horizon shall be five (5) years. The plan shall be updated on an annual basis. The plan shall be used to guide, direct, and, if necessary, restrict the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of placement alternatives.

(6) The Statewide Strategic Planning Committee for Children in Placement may, through the promulgation of administrative regulations, establish a process that results in the review and approval or denial of the development of new facilities and services, the expansion of existing facilities and services, and the geographic location of any facilities and services for children in placement in accordance with the statewide facilities and services plan. Any process established shall include adequate due process rights for individuals and entities seeking to develop new services, construct new facilities, or expand existing facilities, and shall require the involvement of local communities and other resource providers in those communities.

(7) As a part of the statewide strategic plan, and in consultation with the ***Governor's Office for Technology***[~~Kentucky~~

~~Information Resources Management Commission]~~, the Statewide Strategic Planning Committee for Children in Placement shall plan for the development or integration of information systems that will allow information to be shared across agencies and entities, so that relevant data will follow a child through the system regardless of the entity or agency that is responsible for the child. The data produced shall be used to establish and monitor the benchmarks required by subsection (3) of this section. The data system shall, at a minimum, produce the following information on a monthly basis:

(a) Number of placements per child;

(b) Reasons for placement disruptions;

(c) Length of time between removal and establishment of permanency;

(d) Reabuse or reoffense rates;

(e) Fatality rates;

(f) Injury and hospitalization rates;

(g) Health care provision rates;

(h) Educational achievement rates;

(i) Multiple placement rates;

(j) Sibling placement rates;

(k) Ethnicity matching rates;

(l) Family maintenance and preservation rate; and

(m) Adoption disruption rates.

(8) The Statewide Strategic Planning Committee for Children in Placement shall publish an annual report no later than December 1 of each year that includes, but is not limited to, the information outlined in subsection (7) of this section.

Section 25. The following KRS sections are repealed:

42.029 Department of Information Systems -- Commissioner and other personnel -- Divisions -- Duties -- Delegation of authority.

42.640 Definitions for KRS 42.650.

61.937 Authority to enter into memoranda of agreement and contracts.

61.938 Office of the Chief Information Officer -- Duties -- Authority for administrative regulations.

61.940 Legislative declarations.

61.942 Definitions for KRS 61.940 to 61.953.

61.945 Kentucky Information Resources Management Commission.

61.948 Powers of commission.

61.950 Meetings -- Roles and duties -- Administrative Regulations.

61.951 Office for the Kentucky Information Resources Management Commission -- Executive director.

61.953 Contents of five-year statewide information resources management plan.

61.954 Construction of KRS 61.940 to 61.953 with respect to judicial and legislative branches.

61.955 Communications Advisory Council.

Section 26. The General Assembly confirms Executive Order 99-1359, dated October 6, 1999, to the extent it is not otherwise confirmed or superseded by this Act; and Executive Order 99-1360, dated October 6, 1999, which transfers twenty-seven (27) positions and all records, files, and equipment directly associated with these positions, from the Office of Technology Services within the Cabinet for Families and Children to the Governor's Office for Technology.

The Committee Amendment No. 1 to **HB 842** is as follows:

On page 8, by adding the following between lines 14 and 15:

(3) The information, technology, personnel, agency resources, and confidential records of the Kentucky Retirement Systems and the Kentucky Teachers' Retirement System shall be excluded from the provisions of Sections 1 to 9, 15, 20, 22, 23, and 24 of this Act and shall not be under the authority of the Governor's Office for Technology.

HB 856, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

(1) Within five (5) working days of the filing of an ordinary administrative regulation that proposes to establish or increase fees, except those fees exempted by KRS 13A.100(3), an administrative body shall mail a notice containing the information required by subsection (2) of this section, to each state association, organization, or other body representing a person or entity affected by the administrative regulation.

(2) The notice shall include the following information:

- *(a) The name of the administrative body that filed the proposed administrative regulation;*
- *(b) A statement that the administrative body has promulgated an administrative regulation that establishes or increases fees;*
- *(c) A summary of the administrative regulation that includes:*
    - *1. The amount of each fee being established;*
    - *2. The amount of any increases to any fees previously established; and*
    - *3. The necessity for the establishment or increase in the fees;*
- *(d) A statement that a person or entity may contact the administrative body for additional information;*
- *(e) The time, date, and place of the scheduled public hearing; and*
- *(f) The name, address, and telephone number of the contact person for the administrative body.*

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations.~~[;]~~

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

- (a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public;~~[or]~~
- (b) Declaratory rulings;~~[or]~~
- (c) Intradepartmental memoranda not in conflict with KRS 13A.130;~~[or]~~
- (d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or
- (e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions.~~[;]~~

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter.~~[;]~~

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations.~~[;]~~

(5) "Commission" means the Legislative Research Commission.~~[;]~~

(6) "Economic impact" means a financial impact on:

- (a) Commercial enterprises;
- (b) Retail businesses;
- (c) Service businesses;
- (d) Industry;
- (e) Consumers of a product or service; or
- (f) Taxpayers.~~[;]~~

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330.~~[;]~~

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth.~~[;]~~

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245.~~[;]~~

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter.~~[;]~~

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A.~~[;]~~

(12) "Proposed administrative regulation~~[,]~~"~~[except as provided by KRS 13A.015(6),]~~ means an administrative regulation that an administrative body proposes to promulgate.~~[;]~~

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240.~~[;]~~

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation.~~[;]~~

(15) "Subcommittee" ***means***~~[includes]~~ the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly.~~[; and]~~

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

Section 3. KRS 13A.017 is amended to read as follows:

(1) If an administrative body cancels a ***notice of intent***~~[notice-of-intent]~~ public hearing because it has not received a request for a ***notice of intent***~~[notice-of-intent]~~ public hearing pursuant to subsection (3) of KRS 13A.015, the administrative body shall immediately notify the regulations compiler in writing and by telephone that it has canceled the ***notice of intent***~~[notice-of-intent]~~ public hearing.

(2) Following a public hearing on a proposed administrative regulation held pursuant to the provisions of KRS 13A.015, the administrative body shall give consideration to all comments received or made prior to the adjournment of the public hearing, or prior to the cancellation of the public hearing.

(3) The administrative body shall file with the Commission within forty-five (45) days following the date the public hearing was scheduled, a statement:

(a) Identifying the persons who submitted written comments, or attended the public hearing; and

(b) Containing a summary of the:

1. Comments received or made at the public hearing; and

2. Its response to the comments.

(4) The administrative body shall provide a copy of the summary to any person who attended the public hearing and requested that a copy of the summary be provided.

(5) The regulations compiler shall transmit a copy of the summary to a legislator upon request.

(6) If the administrative body promulgates an administrative regulation that was the subject of a public hearing required under the provisions of this section and KRS 13A.015, the regulations compiler shall transmit a copy of the summary to a legislator upon request.

(7)~~[The administrative body shall provide a copy of the summary to persons who attended the public hearing and requested that a copy of the summary be provided.~~

~~(8)]~~ If an administrative body determines that it will file an administrative regulation, it shall file the administrative regulation for which a notice of intent was filed within one hundred twenty (120) calendar days of the date on which the ***notice of intent***~~[notice-of-intent]~~ public hearing was scheduled. ~~[Except as provided by subsection (10) of this section,]~~If an administrative regulation is not filed within one hundred twenty (120) calendar days of the date on which the ***notice of intent***~~[notice-of-intent]~~ public hearing was scheduled, the notice of intent shall expire.

(8)~~[(9)]~~If the administrative body determines that it will not file an ordinary administrative regulation for which a notice of intent was filed, it shall notify the regulations compiler of its determination, in writing, within one hundred twenty (120) calendar days of the date on which the ***notice of intent***~~[notice-of-intent]~~ public hearing was scheduled.

~~[(10) (a) A notice of intent filed prior to July 15, 1996, for which an administrative regulation has not been filed, shall expire on July 15, 1998.~~

~~(b) Except as provided by paragraph (a) of this subsection, a notice of intent filed prior to July 15, 1998, for which an administrative regulation has not been filed, shall expire one hundred eighty (180) calendar days following the date on which the notice-of-intent public hearing was scheduled.]~~

Section 4. KRS 13A.030 is amended to read as follows:

(1) The Administrative Regulation Review Subcommittee shall:

(a) Conduct a continuous study as to whether additional legislation or changes in legislation are needed based on various factors, including but not limited to, review of new, emergency, and existing administrative regulations, the lack of administrative regulations, and the needs of administrative bodies;

(b) Except as provided by KRS 158.6471 and 158.6472, review and comment upon administrative regulations submitted to it by the Commission;

(c) Make recommendations for changes in statutes, new statutes, repeal of statutes affecting administrative regulations or the ability of administrative bodies to promulgate them; and

(d) Conduct such other studies relating to administrative regulations as may be assigned by the Commission.

(2) The subcommittee may make a nonbinding determination:

(a) That an administrative regulation ***is deficient because it***:

1. Is wrongfully promulgated;

2. Appears to be in conflict with an existing statute;

3. Appears to have no statutory authority for its promulgation;

4. Appears to impose stricter or more burdensome state requirements than required by the federal mandate, without reasonable justification;

5. Fails to use tiering when tiering is applicable;

6. Is in excess of the administrative body's authority; or

7. Appears to be deficient in any other manner;

(b) That an administrative regulation is needed to implement an existing statute; ***or***

(c) That an administrative regulation should be amended or repealed.

(3) The subcommittee may require any administrative body to submit data and information as required by the subcommittee in the performance of its duties under this chapter, and no administrative body shall fail to provide the information or data required.

Section 5. KRS 13A.032 is amended to read as follows:

A finding of ***deficiency made in accordance***[~~noncompliance~~] with KRS 13A.030(2)(a) made by a subcommittee shall establish a prima facie case of legislative intent in any action or proceeding in this state in which the validity of an administrative regulation is at issue. Upon such finding, the Legislative Research Commission may institute legal proceedings in Franklin Circuit Court.

Section 6. KRS 13A.070 is amended to read as follows:

(1) The Commission shall promulgate administrative regulations governing the manner and form in which administrative regulations shall be prepared, to the end that all administrative regulations shall be prepared in a uniform manner. The compiler shall refuse to accept for filing any administrative regulation that does not conform to KRS ***Chapter 13A***[~~13A.220 to 13A.250~~] and the administrative regulations ***promulgated***[~~issued~~] thereunder.

(2) The Commission shall furnish advice and assistance to all administrative bodies in the preparation of their administrative regulations, and in revising, codifying, and editing existing or new administrative regulations.

Section 7. KRS 13A.190 is amended to read as follows:

(1) An emergency administrative regulation is one that:

(a) Must be placed into effect immediately in order to:

1. Meet an imminent threat to public health, safety, or welfare;[~~ or~~]

2. Prevent a loss of federal ***or state*** funds;[~~ or~~]

3. Meet a deadline for the promulgation of an administrative regulation that is established by state law, or federal law or regulation; or

4. Protect human health and the environment; and

(b) 1. Is temporary in nature and will expire as provided in this section; or

2. Is temporary in nature and will be replaced by an ordinary administrative regulation as provided in this section.

(2) Emergency administrative regulations shall become effective and shall be considered as adopted upon filing. Emergency administrative regulations shall be published in the next Administrative Register.

(3) (a) Except as provided by paragraph (b) of this subsection, emergency administrative regulations shall expire one hundred seventy (170) days after the date of publication or when the same matter filed as an ordinary administrative regulation filed for review is adopted, whichever occurs first.

(b) If an administrative body extends the public comment period as provided by KRS 13A.270(1), or extends the time for filing a statement of consideration as provided by KRS 13A.280(3), an emergency administrative regulation shall remain in effect for one hundred seventy (170) days after the date of publication plus the number of days extended under the provisions of KRS 13A.270(1) or 13A.280(3), as applicable.

(4) An emergency administrative regulation shall not be renewed for a period of nine (9) months after it has been initially filed. No other emergency administrative regulation that is identical to or substantially the same as the previously-filed emergency administrative regulation shall be promulgated.

(5) When an emergency administrative regulation governing the same subject matter governed by an emergency administrative regulation filed within the previous nine (9) months is filed, it shall contain a detailed explanation of the manner in which it differs from the previously filed emergency administrative regulation. The detailed explanation shall be included in the statement of emergency.

(6) Each emergency administrative regulation shall contain a statement of:

(a) The nature of the emergency;

(b) The reasons why an ordinary administrative regulation is not sufficient;

(c) Whether or not the emergency administrative regulation will be replaced by an ordinary administrative regulation;

(d) If the emergency administrative regulation will not be replaced by an ordinary administrative regulation, the reasons therefor; and

(e) If applicable, the explanation required by subsection (5) of this section.

(7) An administrative body shall attach the:

(a) Statement of emergency required by subsection (6) of this section to the front of the original and each copy of a proposed emergency administrative regulation; and

(b) Regulatory impact analysis, tiering statement, federal mandate comparison, fiscal note, summary of material incorporated by reference if applicable, and other forms or documents required by the provisions of this chapter to the back of the emergency administrative regulation.

(8) If an emergency administrative regulation will not be replaced by an ordinary administrative regulation, the administrative body shall schedule a public hearing pursuant to KRS 13A.270(1). The public hearing information required by KRS 13A.270(2) shall be attached to the back of the emergency administrative regulation.

(9) ***The statement of emergency shall have a two (2) inch top margin***~~[A space no smaller than four (4) inches wide by two (2) inches long in the upper right hand corner of the statement shall be left blank for the regulations compiler's stamp]~~. The number of the emergency administrative regulation shall be typed directly below the heading "Statement of Emergency." The number of the emergency administrative regulation shall be the same number as the ordinary administrative regulation followed by an "E."

(10) Each executive department emergency administrative regulation shall be signed by the head of the administrative body and countersigned by the Governor prior to filing with the Commission. These signatures shall be on the statement of emergency attached to the front of the emergency administrative regulation.

(11) (a) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the emergency administrative regulation shall expire on the date the ordinary administrative regulation is withdrawn.

(b) If an ordinary administrative regulation that was filed to replace an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(12) (a) If an emergency administrative regulation, that was intended to be replaced by an ordinary administrative regulation, is withdrawn, the emergency administrative regulation shall expire on the date it is withdrawn.

(b) If an emergency administrative regulation has been withdrawn, the ordinary administrative regulation that was filed with it shall not expire unless the administrative body informs the regulations compiler that the ordinary administrative regulation is also withdrawn.

(c) If an emergency administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(13) A subcommittee may review an emergency administrative regulation and may recommend to the Governor that the regulation be ***withdrawn***~~[revoked]~~.

Section 8. KRS 13A.220 is amended to read as follows:

All administrative regulations shall comply with the provisions of KRS 13A.222 and 13A.224.

(1) An administrative body shall file with the regulations compiler:

(a) The original and five (5) copies of an administrative regulation; and

(b) At the same time the original and five (5) copies are filed, an electronic version, if available, of the administrative regulation and required attachments on a diskette or by e-mail in an electronic format approved by the regulations compiler.

(2) The original and each copy of each administrative regulation shall be stapled in the top left corner. The original and the five (5) copies of each administrative regulation shall be grouped together.

(3) An amendment to an administrative regulation shall not be made on a copy of the administrative regulation reproduced from the Kentucky Administrative Regulations Service or the Administrative Register. It shall be a typed original in the format specified in subsection (4) of this section.

(4) The format of an administrative regulation shall be as follows:

(a) An administrative regulation shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches and shall be double-spaced. The first page shall have a two (2) inch top margin[~~, and one (1) inch side and bottom margins~~]. Subsequent pages shall have one (1) inch top, bottom, and side margins. The administrative regulation shall be typed in a twelve (12) point font approved by the regulations compiler. The lines on each page shall be numbered[~~, with twenty-three (23) lines to a page~~]. Pages of an administrative regulation and documents attached to the administrative regulation shall be numbered sequentially. Page numbers shall be centered in the bottom margin of each page. Copies of the administrative regulation may be mechanically reproduced;

(b) The regulations compiler shall place a stamp indicating the date and time of receipt of the administrative regulation in the two (2) inch margin on the first page;

(c) The cabinet, department, and division of the administrative body shall be listed on separate double-spaced lines two (2) inches from the top in the upper left hand corner of the first page. This shall be followed on the next double-spaced line by *"(New Administrative Regulation),"* "(Amendment)"[~~ or~~] "(Amended After Hearing)," *or "(Repealer)"* whichever is applicable[~~. If an administrative regulation is new, the notation shall read "(New Administrative Regulation)"~~];

(d) The notation shall be followed by the number and title of the administrative regulation on the next double-spaced line. The promulgating administrative body shall contact the regulations compiler prior to filing to obtain an administrative regulation number for a new administrative regulation;

(e) On the next double-spaced line following the number and title of an administrative regulation, after the words "RELATES TO:," the administrative body shall list all statutes and other enactments, including any branch budget bills or executive orders, to which the administrative regulation relates or which shall be affected by the administrative regulation. After the words "STATUTORY AUTHORITY:" the administrative body shall list the specific statutes and other enactments, where applicable, authorizing the promulgation of the administrative regulation. Federal statutes and regulations shall be cited in the "RELATES TO:" and "STATUTORY AUTHORITY:" sections as provided by KRS 13A.2261, 13A.2264, 13A.2267; and

(f) Following the citations provided for in paragraph (e) of this subsection, and following the words "NECESSITY, FUNCTION, AND CONFORMITY:" the administrative body shall include a brief statement setting forth the necessity for promulgating the administrative regulation, a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b).

(5) The numbering within the body of an administrative regulation shall be the responsibility of the promulgating body, subject to the authority of the regulations compiler to divide or renumber an administrative regulation. The following format shall be used by the administrative body in the numbering of each administrative regulation. Each section shall begin with the word "Section" followed by an arabic number, and titles of sections shall be initially capitalized. Subsections shall be designated by an arabic number in parentheses. Paragraphs shall be designated by lower case letters of the alphabet in parentheses, (e.g., (a), (b), (c), etc.). Subparagraphs shall be designated by an arabic number followed by a period, (e.g., 1., 2., etc.). *Clauses*[~~Sub-subparagraphs~~] shall be designated by lower case letters of the alphabet followed by a period, (e.g., a., b., c., etc.).

(6) After the complete text of an administrative regulation, the administrative body shall include the following information:

(a) If the provisions of KRS 13A.120(3) are applicable, a statement that the official or the head of the administrative body has reviewed or approved the administrative regulation; the signature of such official or head; and the date on which such review or approval occurred;

(b) The authorizing signature of the administrative body promulgating the administrative regulation, and the date on which the administrative body approved the promulgation;

(c)[~~ The signature of an attorney certifying that he has examined and approved the administrative regulation as to form;~~

~~(d)~~] Information relating to public hearings as required by KRS 13A.160 and 13A.270; and

(d)[~~(e)~~]The name, position, address, telephone number, and facsimile number of the contact person of the administrative body. The contact person shall be the person authorized by the head of an administrative body to:

1. Receive information relating to issues raised by the public or by a subcommittee prior to a public meeting of the subcommittee;

2. Negotiate changes in language with a subcommittee in order to resolve such issues; and

3. Answer questions relating to the administrative regulation.

(7) The format for signatures required by paragraphs (a) ***and (b)***[~~to (c)~~] of subsection (6) of this section shall be as follows:

(a) The signature shall be placed on a signature line; and

(b) The name and title of the person signing shall be typed immediately beneath the signature line.

Section 9. KRS 13A.221 is amended to read as follows:

(1) An administrative body shall divide the general subject matter of administrative regulations it promulgates into topics. A separate administrative regulation shall be promulgated for each topic.

(2) An administrative body shall not incorporate all material relating to a general subject matter in one (1) administrative regulation. Material incorporated by reference shall be incorporated by reference in the administrative regulation governing the specific topic to which the material relates.

(3) When an administrative regulation[~~ adopted prior to July 15, 1988,~~] is amended, it shall be amended or repealed, whichever is applicable, to comply with the requirements of ***KRS Chapter 13A***[~~this section~~].

Section 10. KRS 13A.222 is amended to read as follows:

(1) In a new administrative regulation, there shall be no underlining or bracketing.

(2) In an amendment to an administrative regulation, the new words shall precede the deleted words. Exceptions may be permitted by the regulations compiler. The administrative body shall:

(a) Underline all new words; and

(b) Place the deleted words in brackets and strike through these words.

(3) (a) An administrative regulation shall not be amended by reference to a section only. An amendment shall contain the full text of the administrative regulation being amended.

(b) A section of an administrative regulation shall not be reserved for future use.

(4) In drafting administrative regulations, the administrative body shall comply with the following:

(a) The administrative body shall use plain and unambiguous words that are easily understood by laymen. The administrative body shall avoid ambiguous, indefinite, or superfluous words and phrases;

(b) A duty, obligation, or prohibition shall be expressed by "shall" or "shall not." "Should," "could," or "must" shall not be used. The future tense shall not be expressed by the word "shall." A discretionary power shall be expressed by "may;"

(c) The words "said," "aforesaid," "hereinabove," "hereinafter," "beforementioned," "whatsoever," or similar words of reference or emphasis shall not be used. Where an article may be used, the administrative body shall not use the word "such." It shall not use the expression "and/or" and shall not separate alternatives with a slash. It shall not use contractions. When a number of items are all mandatory, the word "and" shall be used. When all of a number of items are not mandatory, the word "or" shall be used;

(d) Certain words are defined in the Kentucky Revised Statutes. Where applicable, these definitions shall be used. Definitions appearing in the Kentucky Revised Statutes shall not be duplicated in a proposed administrative regulation. A reference shall be made to the chapters and sections of the Kentucky Revised Statutes in which such definitions appear;

(e) If definitions are used, they shall be placed in alphabetical order in the first section of an administrative regulation or in a separate administrative regulation. The section or administrative regulation shall be titled "Definitions." If definitions are placed in the first section of an administrative regulation, the definitions shall govern only the terms in that administrative regulation. If definitions are placed in a separate administrative regulation, that administrative regulation shall be the first administrative regulation of the specific chapter of the Kentucky Administrative Regulations Service to which the definitions apply. The title of the administrative regulation shall also contain the number of the chapter of the Kentucky Administrative Regulations Service to which the definitions apply. In the text of an administrative regulation, the word defined in the definitions section, rather than the definition, shall be used. Definitions shall be used only:

1. When a word is used in a sense other than its dictionary meaning, or is used in the sense of one of several dictionary meanings;

2. To avoid repetition of a phrase; or

3. To limit or extend the provisions of an administrative regulation;

(f) If a word has the same meaning as a phrase, the word shall be used;

(g) The present tense and the indicative mood shall be used. Conditions precedent shall be stated in the perfect tense if their happening is required to be completed;

(h) The same arrangement and form of expression shall be used throughout an administrative regulation, unless the meaning requires variations;

(i) "If" or "except" shall be used rather than "provided that" or "provided, however." "If" shall be used to express conditions, rather than the words "when" or "where;"

(j) A word importing the masculine gender may extend to females. A word importing the singular number may extend to several persons or things;

(k) An administrative body shall use the phrases specified in this subsection:

Do Not Use:	Use:
And/or	"and" for a conjunctive "or" for a disjunctive
Any and all	either word
As provided in this administrative regulation	----
At the time	when
And the same hereby is	is
Either directly or indirectly	----
Except where otherwise provided	State specific exemption.
Final and conclusive	final
Full force and effect	force or effect
In the event that; In case	if
Is authorized; Is empowered	may
Is defined and shall be construed to mean	means
Is hereby required to	shall
It shall be lawful	may
Latin words	Do not use unless medical or scientific terminology.
Null and void and of no effect	void
Order and direct	either word
Provision of law	law
Until such time as	until
Whenever	if

(l) 1. Unless the authority for an administrative regulation is an appropriation provision that is not codified in the Kentucky Revised Statutes, the specific chapter and section number of the Kentucky Revised Statutes authorizing the promulgation of an administrative regulation shall be cited.

2. a. If an act has not been codified in the Kentucky Revised Statutes at the time an administrative regulation is promulgated, or if the authority is any branch budget bill, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), sec. (section number)." When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation in writing. Upon receipt of such written notice, the regulations compiler shall correct the citation.

b. For acts of extraordinary sessions, the citation shall be as follows: "(year) (Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)." If there is more than one (1) extraordinary session of the General Assembly in the year, the citation shall specify the specific extraordinary session, as follows: "(year) (2d Extra. Sess.) Ky. Acts ch. (chapter number), sec. (section number)."

3. When an act has been codified, the administrative body shall notify the regulations compiler of the proper citation of the Kentucky Revised Statutes in writing. Upon receipt of the written notice, the regulations compiler shall correct the citation.

4. a. If the statutory authority is an appropriation act, the citation shall be as follows: "(year) Ky. Acts ch. (chapter number), Part (part and subpart numbers)."

b. If appropriate, the citation of an appropriation act shall include a citation to the appropriate part of the budget memorandum.

5. If the authority is an executive order, the citation shall be as follows: "EO (year executive order issued)-

(number of executive order)."

(m) If the statutory authority is a federal law, the citation shall be the:

1. United States Code (U.S.C.), if it has been codified; or

2. Public Law (Pub. L.) and official session laws, if it has not been codified.

(n) 1. If the statutory authority is a federal regulation codified in the Code of Federal Regulations, the citation shall include the title, part, and section number, as follows: "(title number) C.F.R. (part and section number)."

2. a. If the statutory authority is a federal regulation that has not been codified in the Code of Federal Regulations, the citation shall be to the Federal Register, as follows: "(volume number) Fed. Reg. (page number) (effective date of the federal regulation) (section of Code of Federal Regulations in which it will be codified)."

b. When the federal regulation is codified, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

3. a. If the statutory authority is a federal regulation that has been amended, and the amendment is not reflected in the current issue date of the volume of the Code of Federal Regulations in which the federal regulation is codified, the citation shall be to the Federal Register as follows: "(federal regulation that has been amended), (volume number) Fed. Reg. (page number) (effective date of the amendment)."

b. When the amendment is codified in the appropriate volume of the Code of Federal Regulations, the citation shall be amended to read as provided by subparagraph 1. of this paragraph.

(o) Citations of items in the "RELATES TO" paragraph of an administrative regulation shall comply with paragraphs (l), (m), and (n) of this subsection.

(p) An administrative regulation may cite the popular name of a federal or state law if the popular name is accompanied by the citation required by this paragraph.

Section 11. KRS 13A.2245 is amended to read as follows:

(1) An administrative body may incorporate by reference a code or uniform standard if a federal or state statute requires:

(a) An administrative body to implement[~~;~~] or [~~(b)~~]a regulated entity to comply with[~~;~~]

the provisions of that code or uniform standard; and

(b)[~~(c)~~]Does not set forth the code or uniform standard, or a comprehensive scheme of regulation.

(2) If a code or uniform standard is adopted with changes by the administrative body, the administrative body shall file with the regulations compiler a:

(a) Copy of the code or uniform standard;

(b) Summary listing the pages upon which changes have been made; and

(c) Detailed summary of the changes and their effect.

The summaries shall be attached to the back of the proposed administrative regulation.

(3) If a federal regulation requires an administrative body to adopt, develop, or implement material of a scientific or technical nature that does not lend itself to the format requirements of KRS Chapter 13A, the administrative body may incorporate such material by reference in an administrative regulation as provided by KRS 13A.2251 and 13A.2255.

Section 12. KRS 13A.2251 is amended to read as follows:

(1) An administrative body shall incorporate material by reference in the last section of an administrative regulation. This section shall include:

(a) The title and edition of the material incorporated by reference placed in quotation marks;

(b) Information on how the material may be obtained; and

(c) A statement that the material is available for public inspection and copying, subject to copyright law, at the main, regional, or branch offices of the administrative body, and the address and office hours of each.

(2) The section incorporating material by reference shall be titled "Incorporation by Reference".

(a) If only one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "(name and edition date of material incorporated) is incorporated by reference."

(b) If more than one (1) item is incorporated by reference, the first subsection of the section incorporating material by reference shall contain the following statement: "The following material is incorporated by reference: (a) (name and edition date of first item incorporated); and (b) (name and edition date of second item incorporated)."

(c) The second subsection of the section incorporating material by reference shall include the following statement: "This material may be inspected, copied, or obtained***, subject to applicable copyright law,*** at (name of agency, full address), Monday through Friday, 8:00 a.m. to 4:30 p.m."

(3) A summary of the incorporated material, in detail sufficient to identify the subject matter to which it pertains, shall be attached to an administrative regulation that incorporates material by reference. This summary shall include:

(a) Relevant programs, statutes, funds, rights, duties, and procedures affected by the material and the manner in which they are affected;

(b) A citation of the specific state or federal statutes or regulations authorizing or requiring the procedure or policy found in the material incorporated by reference; and

(c) The total number of pages incorporated by reference.

(4) (a) One (1) copy of the material incorporated by reference shall be filed with the regulations compiler when the administrative regulation is filed.

(b) Material incorporated by reference shall be placed in a binder. The administrative body shall ***write,*** stamp, or type, on the front binder cover and on the first page of the material incorporated by reference, the number of the administrative regulation to which material incorporated by reference pertains, the date on which it is filed, and the citation of each item that is included in the binder.

(c) If the same material is incorporated by reference in more than one (1) administrative regulation, an administrative body may file one (1) copy of the material in a binder. The numbers of the administrative regulations in which the material is incorporated by reference shall be ***written,*** stamped, or typed on the:

1. Front binder cover; and

2. First page of the material incorporated by reference.

Section 13. KRS 13A.2255 is amended to read as follows:

When an administrative regulation amends material that had been previously incorporated by reference, the amendment shall be accomplished by submission of:

(1) An entire new document in which the amendments have been made but are not reflected in the manner specified in ***subsection (2) of Section 10 of this Act***~~[KRS 13A.222]~~;

(2) A summary listing the pages upon which changes have been made, and a detailed summary of the changes and their effect. This summary shall be attached to the administrative regulation; and

(3) The page or pages of the document in which changes have been made, with the changes accomplished in the manner specified in ***subsection (2) of Section 10 of this Act***~~[KRS 13A.222]~~.

Section 14. KRS 13A.240 is amended to read as follows:

(1) Every administrative body shall prepare and submit to the Legislative Research Commission an original and five (5) duplicate copies of a regulatory impact analysis for every administrative regulation when it is filed with the Commission. The regulatory impact analysis shall include, but not be limited to, the following information:

(a) ***A brief narrative summary of:***

1. What the administrative regulation does;

2. The necessity of the administrative regulation;

3. How the administrative regulation conforms to the content of the authorizing statutes; and

4. How the administrative regulation currently assists or will assist in the effective administration of the statutes;

~~[The type and number of individuals, businesses, organizations, and state and local governments affected by the administrative regulation; and]~~

(b) ***If this is an amendment to an existing administrative regulation, a brief narrative summary of:***

1. How the amendment will change the existing administrative regulation;

2. The necessity of the amendment to the administrative regulation;

3. How the amendment conforms to the content of the authorizing statutes; and

4. How the amendment to the administrative regulation will assist in the effective administration of the statutes;

~~[The direct and indirect costs or savings, including, to the extent available from the public comments received, the:~~

~~1. Effect on the cost of living and employment in the geographical area in which the administrative regulation will be implemented; and~~

~~2. Effect on the cost of doing business in the geographical area in which the administrative regulation will be implemented; and~~

~~3. Compliance, reporting, and paperwork requirements of the administrative regulation on those affected for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second and subsequent years with any factors which might increase or decrease the cost of the administrative regulation, including the effect on competition being noted; and]~~

(c) ***The type and number of individuals, businesses, organizations, or state and local governments affected by the administrative regulation;***~~[The direct and indirect costs or savings and paperwork requirements to the promulgating administrative body for the administration and enforcement of the administrative regulation for the first year following the implementation of the administrative regulation, and the continuing costs or savings for the second year with any factors which might increase or decrease the cost of the administrative regulation being noted; and]~~

(d) ***An assessment of how the above group or groups will be impacted by either the implementation of this administrative regulation, if new, or by the change if it is an amendment to an existing administrative regulation;***~~[An assessment of any anticipated effect on state and local revenues; and]~~

(e) ***An estimate of how much it will cost to implement this administrative regulation, both initially and on a continuing basis;***~~[The source of the revenue to be used for the implementation and enforcement of the administrative regulation; and]~~

(f) ***The source of the funding to be used for the implementation and enforcement of the administrative regulation;***~~[To the extent available from the public comments received, the economic impact of the administrative regulation on the geographical area in which the administrative regulation will be implemented, and on the state, including the effects of the economic activities arising from the administrative regulation; and]~~

(g) An assessment of ***whether an increase in fees or funding will be necessary to implement this administrative regulation or amendment to an existing administrative regulation;***~~[alternative methods for accomplishing the purpose of the administrative regulation and the reasons why they were rejected in favor of the administrative regulation]~~; and

(h) ***A statement as to whether or not this administrative regulation establishes any fees or directly or indirectly increases any fees***~~[An assessment of the expected benefits of the administrative regulation; and~~

~~(i) A statement:~~

~~1. Identifying the effects of the administrative regulation on the public health and environmental welfare of the geographical area in which the administrative regulation will be implemented and upon the state; and~~

~~2. Stating whether there would be a detrimental effect on the environment and public health if the administrative regulation is not implemented; and~~

~~3. If there would be a detrimental effect on the environment and public health, an explanation of the detrimental effect; and~~

~~(j) A written statement identifying any statute, rule, regulation, or governmental policy which the administrative regulation may be in conflict with, overlap, or duplicate; and a written statement for the necessity to promulgate the administrative regulation if conflict, overlapping, or duplication is found to exist. The administrative body shall also indicate whether or not any effort has been made to harmonize the administrative regulation with any statute, rule, regulation, or governmental policy with which it has been found to be in conflict]~~.

(2) The Legislative Research Commission shall review all regulatory impact analyses submitted by all administrative bodies, and prepare a written analysis thereof and of the administrative regulation. The Legislative Research Commission may require any administrative body to submit background data upon which the information required by subsection (1) is based, and an explanation of how the data was gathered.

Section 15. KRS 13A.280 is amended to read as follows:

(1) Following the scheduled hearing date, the administrative body shall give consideration to all written and oral comments received by adjournment of the scheduled public hearing, or by the close of business on the scheduled public hearing date if the public hearing was not held.

(2) The administrative body shall then file with the commission on or before 12 noon, eastern time, on the fifteenth day following the scheduled hearing date the statement of consideration relating to the administrative regulation.

(3) (a) Except as provided by paragraph (b) of this subsection, if the administrative regulation is amended as a result of the hearing or written or oral comments received, the administrative body shall forward the items specified in paragraph (c) of this subsection to the regulations compiler by noon on the fifteenth day following the hearing.

(b) If an administrative body has received a significant number of public comments, it may extend the time for filing the statement of consideration for up to thirty (30) days by notifying the Commission in writing on or before 12 noon of the fifteenth day following the public hearing. The administrative body shall file with the Commission on or before 12 noon, eastern time, no later than the forty-fifth day following the public hearing date the items specified in paragraph (c) of this subsection.

(c) 1. The original and five (5) copies of the administrative regulation indicating any amendments in the original wording resulting from the hearing, or resulting from written or oral comments received at the hearing or otherwise;

2. The original and five (5) copies of the statement of consideration as required by subsection (2) of this section, attached to the back of the original and each copy of the administrative regulation; and

3. The regulatory impact analysis, tiering statement, federal mandate comparison, or fiscal note on local government. These documents shall reflect changes resulting from amendments made after the public hearing.

(4) The format for the statement of consideration shall be as follows:

(a) The statement shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches. Copies of the statement may be mechanically reproduced;

(b) ***The statement of consideration shall have a two (2) inch top margin***~~[A space no smaller than two (2) by three (3) inches in the upper right hand corner shall be left blank for the regulations compiler's stamp indicating the date and time of receipt of the statement]~~;

(c) The heading of the statement shall consist of the words "STATEMENT OF CONSIDERATION RELATING TO" followed by the number of the administrative regulation that was the subject of the public hearing and the name of the promulgating administrative body. The heading shall be centered~~[three (3) inches from the top of the first page]~~. This shall be followed by the words "Not Amended After Hearing" or "Amended After Hearing," whichever is applicable;

(d) If a hearing has been held the heading is to be followed by:

1. A statement setting out the date, time and place of the hearing;

2. A list of those attending the hearing ***or who have submitted written comments*** and the organization, agency, or other entity represented, if applicable; and

3. The name and title of the representative of the promulgating administrative body;

(e) If a hearing has not been held, but written or oral comments have been received:

1. A list of those who have submitted written or oral comments and the organization, agency, or other entity represented, if applicable; and

2. The name and title of the representative of the promulgating administrative body responding to the written or oral comments;

(f) Following the general information, the promulgating administrative body shall summarize the written and oral comments received and the response of the promulgating administrative body. Each subject commented upon shall be summarized in a separate numbered paragraph. Each numbered paragraph shall contain two (2) subsections:

1. Subsection (a) shall be labeled "Comment," shall identify the name of the person, and the organization represented if applicable, who made the comment, and shall contain a summary of the comment; and

2. Subsection (b) shall be labeled "Response" and shall contain the response to the comment by the promulgating administrative body;

(g) Following the summary and comments, the promulgating administrative body shall summarize the statement and the action taken by the administrative body as a result of the public hearing;

(h) If the promulgating administrative body amends the administrative regulation after a public hearing at which there were no participants other than administrative body personnel, this fact shall be noted in the statement; and

(i) If administrative regulations were considered as a group at a public hearing, one (1) statement of consideration may include the group of administrative regulations. If a comment relates to one (1) or more of the administrative regulations in the group, the summary of the comment and response shall specify each administrative regulation to which it applies.

(5) (a) If the administrative regulation is not amended as a result of the public hearing, or written or oral comments received, the administrative body shall file the original and five (5) copies of the statement of consideration as required by subsection (2) of this section with the regulations compiler by noon on the fifteenth day following the hearing.

(b) If the statement of consideration is not forwarded to the regulations compiler at least ten (10) working days prior to a meeting of the Administrative Regulation Review Subcommittee, the administrative regulation shall be deferred to the next regularly scheduled meeting of the subcommittee.

(6) If the administrative regulation is amended pursuant to subsection (3) of this section the full text of the administrative regulation shall be published in the Administrative Register. The administrative regulation shall be reviewed by the Administrative Regulation Review Subcommittee after such publication.

(7) If requested, copies of the statement of consideration shall be made available by the promulgating administrative body to persons attending the hearing or submitting comments.

Section 16. KRS 13A.290 is amended to read as follows:

(1) Except as provided by KRS 158.6471 and 158.6472, within forty-five (45) days after publication of an administrative regulation in "The Administrative Register," or within forty-five (45) days of the receipt of a statement of consideration, the Administrative Regulation Review Subcommittee shall meet to review the administrative regulation.

(2) The meetings shall be open to the public.

(3) Public notice of the time, date, and place of the Administrative Regulation Review Subcommittee meeting shall be given in the Administrative Register.

(4) A representative of the administrative body promulgating the administrative regulation under consideration shall be present to explain the administrative regulation and to answer questions thereon. If a representative of the administrative body with authority to amend the administrative regulation is not present at the subcommittee meeting, the administrative regulation shall be deferred to the next regularly-scheduled meeting of the subcommittee.

(5) Following the meeting and before the next regularly-scheduled meeting of the Commission, the Administrative Regulation Review Subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. The Administrative Regulation Review Subcommittee shall also forward to the Commission its findings, recommendations, or other comments it deems appropriate on an existing administrative regulation it has reviewed. One (1) copy thereof shall be sent to the promulgating agency. The Administrative Regulation Review Subcommittee's findings shall be published in the Administrative Register.

(6) (a) After review by the Administrative Regulation Review Subcommittee, the Commission shall, at its next regularly-scheduled meeting, assign the matter to a subcommittee of appropriate jurisdiction over the subject matter.

(b) Upon notification of the assignment by the Commission, the legislative subcommittee to which the matter is assigned shall notify the regulations compiler:

1. Of the date, time, and place of the meeting at which it will consider the matter; or
2. That it will not meet to consider the matter.

(7) Within thirty (30) days of the assignment, the subcommittee shall hold a public meeting during which the regulation shall be reviewed. If the thirtieth day of the assignment falls on a Saturday, Sunday, or holiday, the deadline for review shall be the workday following the Saturday, Sunday, or holiday. The subcommittee may also review an existing administrative regulation and make a determination as provided by KRS 13A.030(2) and (3). Notice of the time, date, and place of the meeting shall be placed in the legislative calendar.

(8)[~~ An administrative body shall comply with subsection (4) of this section.~~

~~(9)~~] The subcommittee shall be empowered to make the same nonbinding determinations and to exercise the same authority as the Administrative Regulation Review Subcommittee as provided in KRS 13A.030(2) and (3).

(9)[~~(10)~~] (a) Upon adjournment of the meeting at which a legislative subcommittee has considered an administrative regulation pursuant to subsection (7) of this section, the subcommittee shall inform the regulations compiler of its findings, recommendations, or other action taken on the administrative regulation.

(b) Following the meeting and before the next regularly-scheduled meeting of the Commission, the subcommittee shall forward to the Commission its findings, recommendations, or other comments it deems appropriate in writing. One (1) copy thereof shall be sent to the promulgating agency. The subcommittee's findings shall be published in the Administrative Register.

Section 17. KRS 13A.300 is amended to read as follows:

(1) The administrative body which has promulgated an administrative regulation may request at a meeting of a subcommittee that consideration of the administrative regulation be deferred by the subcommittee. Upon receipt of the request, the subcommittee may defer consideration of the administrative regulation.

(2)[~~ The deferring of an administrative regulation shall have the same effect as an action under KRS 13A.310.~~

~~(3)~~] A subcommittee may request that consideration of an administrative regulation be deferred by the promulgating administrative body. Upon receipt of the request, the promulgating administrative body may agree to defer consideration of the administrative regulation.

(3)[~~(4)~~]Except as provided in subsections (1) ***and (2)***[~~to (3)~~] of this section, neither the promulgating administrative body, the Commission, nor a subcommittee shall defer any action which is required to be taken pursuant to this chapter.

(4)[~~(5)~~]An administrative regulation that has been deferred shall be placed on the agenda of the next scheduled meeting of the subcommittee that is reviewing the administrative regulation. The subcommittee shall consider the administrative regulation as if it had met all other requirements of filing. Repromulgation shall not be required in such cases.

Section 18. KRS 13A.310 is amended to read as follows:

(1) An administrative regulation, once adopted, cannot be withdrawn but shall be repealed if it is desired that it no longer be effective.

(2) An administrative regulation, once adopted, cannot be suspended but shall be repealed if it is desired to suspend its effect.

(3) (a) An administrative regulation shall be repealed only by the promulgation of an administrative regulation that:

1. Is titled "Repeal of (state number of administrative regulation to be repealed)";~~[and]~~

2. Contains the reasons for repeal in the "NECESSITY*,*~~[AND]~~ FUNCTION*, AND CONFORMITY*" paragraph*;*

3. Includes in the body of the administrative regulation, a citation to the number and title of the administrative regulation or regulations being repealed; and

4. Meets the filing and formatting requirements of Section 8 of this Act.

(b) On the effective date of an administrative regulation that repeals an administrative regulation, the regulations compiler shall delete the repealed administrative regulation and the repealing administrative regulation from the Kentucky Administrative Regulations Service.

(c) An administrative body may repeal more than one (1) administrative regulation in an administrative regulation promulgated pursuant to paragraph (a) of this subsection if the administrative regulations being repealed are contained in the same chapter of the Kentucky Administrative Regulations Service.

(4) An ordinary administrative regulation may be withdrawn by the promulgating agency at any time prior to its adoption. An ordinary administrative regulation that has been found deficient may be withdrawn by the promulgating agency at any time prior to receipt by the regulations compiler of the determination of the Governor made pursuant to KRS 13A.330. If an ordinary administrative regulation is withdrawn, the administrative body shall inform the regulations compiler of the reasons for withdrawal in writing.

(5) Once an ordinary administrative regulation is withdrawn it shall not be reinstated, except by repromulgation as a totally new matter.

Section 19. KRS 13A.330 is amended to read as follows:

(1) An administrative regulation that has not been found deficient by a legislative subcommittee shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day a subcommittee meets to consider the administrative regulation pursuant to KRS 13A.290(7) if:

1. The administrative regulation is on the agenda of the subcommittee meeting;

2. A quorum of the subcommittee is present; and

3. The subcommittee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(b) If a subcommittee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in KRS 13A.290(7), or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) If an administrative regulation has been found deficient by a legislative subcommittee, the legislative subcommittee shall transmit copies of its transmittal to the Governor to the regulations compiler.

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5) An administrative regulation that has been found deficient by a legislative subcommittee shall be considered as adopted and become effective after:

(a) *1.* The subcommittee of appropriate jurisdiction to which an administrative regulation was assigned pursuant to KRS 13A.290(6) has:

a.~~[1.]~~ ***Considered***~~[Reviewed]~~ the administrative regulation;~~[or]~~

b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or

c.~~[2.]~~ Failed to meet within thirty (30) days of such assignment; and

2.~~[(b)]~~ The regulations compiler has received the Governor's determination; that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or

(b)~~[(c)]~~The legislative subcommittee that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 20. KRS 13A.333 is amended to read as follows:

(1) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.

(2) If an administrative regulation is found deficient by a legislative subcommittee under the provisions of KRS Chapter 13A during the interim between regular sessions of the General Assembly, it shall expire on adjournment of the next succeeding regular session of the General Assembly.

(3) The provisions of this section shall apply to all administrative regulations found deficient~~[, including those found deficient during the 1990 Regular Session of the General Assembly]~~.

(4) If deferral of an administrative regulation at the request of an administrative body would result in its adoption after adjournment of a regular session of the General Assembly, it shall expire on adjournment of that regular session of the General Assembly.

(5) (a) An administrative body may prepare legislation proposing the enactment of the provisions of an administrative regulation found deficient by a subcommittee.

(b) Prior to the convening of the General Assembly in regular session, it shall notify the regulations compiler in writing of its intent to prepare legislation.

(c) It shall submit such legislation to the Legislative Research Commission.

(d) The proposed legislation may be introduced by any member of the General Assembly.

(6) (a) An administrative body shall be prohibited from promulgating an administrative regulation that is identical to or substantially the same as an administrative regulation which has expired pursuant to subsections (1), (2), and (4) of this section. This prohibition shall be effective for a two (2) year period running from the date of expiration of the administrative regulation.

(b) An administrative regulation shall be determined to be identical to or substantially the same as an administrative regulation that expired if it is deficient in the same manner as the administrative regulation that expired because it was found deficient.

(c) An administrative regulation shall not be determined to be identical to or substantially the same as an administrative regulation that expired if:

1. It contains the identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation; and

2. The identical or substantially similar language or provisions that gave rise to the finding of deficiency of the expired administrative regulation are required by state law, or federal law or regulation, or court decision.

Section 21. KRS 13A.335 is amended to read as follows:

(1) An administrative regulation found deficient by a subcommittee shall not expire if:

(a) A subsequent amendment of that administrative regulation is filed with the Commission by the administrative body;

(b) The subcommittee that found the administrative regulation deficient approves a motion that the subsequent amendment corrects such deficiency; and

(c) Any subcommittee that reviews the administrative regulation under the provisions of KRS Chapter 13A finds that the administrative regulation is not deficient.

(2) An administrative regulation found deficient by the Administrative Regulation Review Subcommittee shall not expire if:

(a) The administrative regulation is amended to correct the deficiency at a meeting of the subcommittee to which it was assigned by the Commission;

(b) That subcommittee does not determine that the administrative regulation is deficient for any other reason; and

(c) The Administrative Regulation Review Subcommittee approves a motion that the deficiency has been corrected and that the administrative regulation should not expire.

(3) An administrative regulation found deficient by a subcommittee shall not expire if the subcommittee:

(a) Reconsiders the administrative regulation and its finding of deficiency; and

(b) Approves a motion that the administrative regulation is not deficient.

(4) (a) If an existing administrative regulation has been amended and found deficient by a subcommittee, it shall not expire if the:

1. Administrative regulation was found deficient due to the amendment;

2. Promulgating administrative body has withdrawn the proposed amendment of the existing administrative regulation; and

3. Regulations compiler has not received the Governor's determination pursuant to KRS 13A.330.

(b) If an administrative regulation has been found deficient by a subcommittee, the regulations compiler shall add the following notice to the administrative regulation: "This administrative regulation shall expire on adjournment of the next regular session of the General Assembly." This notice shall be the last section of the administrative regulation.

(c) If an administrative regulation has been found deficient by a subcommittee, subsequent amendments of that administrative regulation filed with the Commission shall contain the notice provided in paragraph ***(b)***[~~(a)~~] of this subsection.

(d) If an administrative regulation that has been found deficient by a subcommittee has been amended and determined not to be deficient under the provisions of this section, the regulations compiler shall delete the notice required by paragraph ***(b)***[~~(a)~~] of this subsection.

The Committee Amendment No. 1 to **HB 856** is as follows:

On Page 3, Line 7, by bracketing and striking through "KRS 13A.290 and 13A.330" and after "by", inserting "***Sections 16, 19, and 22 of this Act***" and

On Page 4, Lines 3 and 4, by bracketing and striking through "a standing committee of the General Assembly" and inserting after the second comma on line 3 "***an interim joint committee***" and

On Page 4, Line 5, by bracketing and striking through "meeting jointly" and

On Page 4, Line 21, by bracketing and striking through "and" and

On Page 4, Line 24, after "comments", by inserting the following:

"***; and***

(c) In the same format as the statement of consideration required by subsection (4) of Section 15 of this Act" and

On Page 30, Line 26, after "to" by inserting "***: 1.***" and

On Page 30, Line 26, after "matter", by inserting the following:

"***; or***

2. During a session of the General Assembly, the House of Representatives and Senate standing committees of appropriate jurisdiction over the subject matter" and

On Page 31, Line 14, before the word "The", by inserting "***Except as provided in subsection (9) of this section, a***" and by bracketing and striking through "The" and

On Page 31, Line 16, by bracketing and striking through "as provided in KRS 13A.030(2) and (3)" and

On Page 31, between Lines 16 and 17, by inserting the following:

"***(9) During a session of the General Assembly, standing committees of the Senate and House of Representatives shall agree in order to amend an administrative regulation or to find an administrative regulation deficient pursuant to KRS 13A.030(2) and (3) by:***

(a) Meeting separately; or

(b) Meeting jointly. If the standing committees meet jointly, it shall require a majority vote of Senate members voting and a majority of House members voting in order to take action on the administrative regulation." and

On Page 31, Line 17, by deleting "***(9)***" and removing the brackets and strikethrough from "(10)" and

On Page 33, Line 20, by bracketing and striking through "KRS 13A.330" and after "to" by inserting "***Section 19 or 22 of this Act***" and

On Page 33, Line 26, before "(1)", by inserting the following:

"*The provisions of this section shall apply to administrative regulations that are assigned pursuant to subsection (6)(a)1. of Section 16 of this Act.*" and

On Page 38, Line 9, by bracketing and striking through "KRS 13A.330" and after "to" by inserting "*Section 19 or 22 of this Act*" and

On Page 38, Line 22, after "subsection.", by inserting the following:

"SECTION 22. A NEW SECTION OF KRS CHAPTER 13A IS CREATED TO READ AS FOLLOWS:

The provisions of this section shall apply to administrative regulations that are assigned pursuant to subsection (6)(a)2. of Section 16 of this Act.

(1) An administrative regulation that has not been found deficient by both standing committees shall be considered as adopted and shall become effective:

(a) Upon adjournment on the day the second standing committee meets to consider the administrative regulation pursuant to Section 16 of this Act if:

1. The administrative regulation is on the agenda of the standing committee meeting;

2. A quorum of the standing committee is present;

3. The standing committee:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; and

4. Pursuant to subsection (9) of Section 16 of this Act, the decision of the standing committee to amend the administrative regulation is the same as the decision of the corresponding standing committee of the other chamber to amend the administrative regulation;

(b) Upon adjournment on the day the standing committee meeting jointly meets to consider the administrative regulation pursuant to Section 16 of this Act if:

1. The administrative regulation is on the agenda of the joint standing committee meeting;

2. A quorum of the joint standing committee is present;

3. The joint standing committee meeting:

a. Considers the administrative regulation; or

b. Fails to consider the administrative regulation and fails to agree to defer its consideration of the administrative regulation; or

(c) If a standing committee fails to meet within thirty (30) days of assignment of an administrative regulation as provided in Section 16 of this Act, or does not place the administrative regulation on the agenda of a meeting held within thirty (30) days of the referral of the administrative regulation to it by the Commission, at the expiration of the thirty (30) day period.

(2) If an administrative regulation has been found deficient by both standing committees, or by the standing committees meeting jointly, the standing committees, or the standing committees meeting jointly shall transmit to the Governor:

(a) A copy of its finding of deficiency and other findings, recommendations, or comments it deems appropriate; and

(b) A request that the Governor determine whether the administrative regulation shall:

1. Be withdrawn;

2. Be withdrawn and amended to conform to the finding of deficiency; or

3. Become effective pursuant to the provisions of this section notwithstanding the finding of deficiency.

(3) If an administrative regulation has been found deficient by the standing committees or by the standing committees meeting jointly, the standing committees or standing committees meeting jointly shall transmit copies of its transmittal to the Governor to the regulations compiler.

(4) The Governor shall transmit his determination to the Commission and the regulations compiler.

(5) An administrative regulation that has been found deficient by the Administrative Regulation Review Subcommittee, the standing committees or by the standing committees meeting jointly shall be considered as adopted and become effective after:

(a) 1. The standing committees of appropriate jurisdiction to which an administrative regulation was assigned pursuant to Section 16 of this Act has:

a. Considered the administrative regulation;

b. Failed to consider the administrative regulation and failed to agree to defer its consideration of the administrative regulation; or

c. Failed to meet within thirty (30) days of such assignment; and

2. The regulations compiler has received the Governor's determination that the administrative regulation shall become effective pursuant to the provisions of this section notwithstanding the finding of deficiency; or

(c) The subcommittee, standing committees, or standing committees meeting jointly that found the administrative regulation deficient subsequently determines that the administrative regulation is not deficient, provided that this determination was made prior to receipt by the regulations compiler of the Governor's determination.

Section 23. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection (6) of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:

(a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.

(3) The notice of intent shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The number and the specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b);

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented.

(4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the Administrative Register.

(5) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin~~[, and one (1) inch side and bottom margins]~~. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.

(6) (a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(7) If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 24. KRS 13A.315 is amended to read as follows:

(1) An administrative regulation shall be withdrawn and shall not be reviewed by a legislative subcommittee if:

(a) It has not been reviewed or approved by the official or administrative body with authority to review or approve;

(b) An item is not filed on or before a deadline specified by this chapter; or

(c) The administrative body has failed to comply with the provisions of this chapter governing the filing of administrative regulations, public hearings, and the statement of consideration.

(2) An administrative regulation which has not complied with all the provisions of this chapter and any regulations promulgated under this chapter shall be considered procedurally defective and void.

(3) (a) An administrative regulation that has been found deficient by a subcommittee shall be withdrawn immediately by the promulgating administrative body if, pursuant to ***Section 19 or 22 of this Act***~~[KRS 13A.330]~~, the Governor has determined that it shall be withdrawn.

(b) The promulgating administrative body shall notify the regulations compiler in writing and by telephone that it is withdrawing an administrative regulation governed by the provisions of this subsection.

(c) The written withdrawal of an administrative regulation governed by the provisions of this subsection shall be made in a letter to the regulations compiler in the following format: "Pursuant to ***(subsection (2)(b) of Section 19 of this Act or subsection (2)(b) of Section 22 of this Act)***~~[KRS 13A.330(2)(b)]~~, the Governor has determined that (administrative regulation number and title) shall be (withdrawn, or withdrawn and amended to conform to the finding of deficiency, as applicable). The (name of promulgating administrative body) withdraws (administrative regulation number and title)."

(d) An administrative regulation governed by the provisions of this subsection shall be considered withdrawn upon receipt by the regulations compiler of the written withdrawal.

Section 25. KRS 194A.050 is amended to read as follows:

(1) The secretary shall formulate, promote, establish, and execute policies, plans, and programs and shall adopt, administer, and enforce throughout the Commonwealth all applicable state laws and all administrative regulations necessary under applicable state laws to protect, develop, and maintain the health, personal dignity, integrity, and sufficiency of the individual citizens of the Commonwealth and necessary to operate the programs and fulfill the responsibilities vested in the cabinet. The secretary shall promulgate, administer, and enforce those administrative regulations necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds and necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

(2) The secretary shall utilize the Public Health Services Advisory Council to review and make recommendations on contemplated administrative regulations. No administrative regulations issued under the authority of the cabinet shall be filed with the Legislative Research Commission unless they are issued under the authority of the secretary, and the secretary shall not delegate that authority.~~[All administrative regulations prepared within the cabinet shall be attested as to form and legality by the Office of the General Counsel.]~~

(3) Except as otherwise provided by law, the secretary shall have authority to establish by administrative regulation a schedule of reasonable fees, none of which shall exceed one hundred dollars ($100), to cover the costs of annual inspections of efforts regarding compliance with program standards administered by the cabinet. All fees collected for inspections shall be deposited in the State Treasury and credited to a revolving fund account to be used for administration of those programs of the cabinet. The balance of the account shall lapse to the general fund at the end of each biennium. Fees shall not be charged for investigation of complaints.".

HB 887, AN ACT relating to state purchasing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.080 is amended to read as follows:

(1) Contracts exceeding the amount provided by KRS 45A.100 shall be awarded by competitive sealed bidding unless it is determined in writing that this method is not practicable. Factors to be considered in determining whether competitive sealed bidding is not practicable shall include:

(a) Whether specifications can be prepared that permit award on the basis of best value; and

(b) The available sources, the time and place of performance, and other relevant circumstances as are appropriate for the use of competitive sealed bidding.

(2) The invitation for bids shall state that awards shall be made on the basis of best value. ***In any contract which is awarded under an invitation to bid which requires delivery by a specified date and imposes a penalty for late delivery, if the delivery is late, the contractor shall be given the opportunity to present evidence that the cause of the delay was beyond his control. If it is the opinion of the purchasing officer that there is sufficient justification for delayed delivery, the purchasing officer may adjust or waive any penalty that is provided for in the contract.***

(3) Adequate public notice of the invitation for bids shall be given a sufficient time prior to the date set forth for the opening of bids. The notice may include posting on the Internet or publication in a newspaper or newspapers of general circulation in the state as determined by the secretary of the Finance and Administration Cabinet not less than seven (7) days before the date set for the opening of the bids. The provisions of this subsection shall also apply to price contracts and purchase contracts of state institutions of higher education.

(4) Bids shall be opened publicly at the time and place designated in the invitation for bids. At the time the bids are opened, the purchasing agency shall announce the agency's engineer's estimate, if applicable, and make it a part of the agency records pertaining to the letting of any contract for which bids were received. Each bid, together with the name of the bidder and the agency's engineer's estimate, shall be recorded and be open to public inspection. Electronic bid opening and posting of the required information for public viewing shall satisfy the requirements of this subsection.

(5) The contract shall be awarded by written notice to the responsive and responsible bidder whose bid offers the best value.

(6) Correction or withdrawal of bids shall be allowed only to the extent permitted by regulations issued by the secretary.

HB 901, AN ACT relating to the Kentucky Information Highway.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

(6) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which any entity that has been approved for economic development incentives under programs approved and administered by the Kentucky Economic Development Finance Authority may have access and use on the same terms as agencies of the Commonwealth of Kentucky.

(7) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which nonprofit organizations whose primary purpose is the delivery of services related to education, economic development, or cultural arts and humanities, may have access and use on the same terms as agencies of the Commonwealth of Kentucky. For the purposes of this section, "nonprofit organizations" means those organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

The Committee Substitute No. 1 to **HB 901** is as follows:

HB 901, AN ACT relating to the Kentucky Information Highway.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45A.605 is amended to read as follows:

(1) As used in this section:

(a) "Information highway" means a communication network for voice, data, and video communications technologies; and

(b) "Agencies of the Commonwealth of Kentucky" includes all authorities; boards; commissions; councils; departments; program cabinets; the Kentucky Lottery Corporation; vocational schools; the Kentucky School for the Deaf; the Kentucky School for the Blind; upon written request of the Chief Justice, the Court of Justice; upon written request of the co-chairmen of the Legislative Research Commission, the General Assembly and the Legislative Research Commission; and upon written request of presidents, state institutions of higher education.

(2) The provisions of any other law notwithstanding, the Finance and Administration Cabinet may enter into one (1) or more contracts, on behalf of agencies of the Commonwealth of Kentucky, with any person, partnership, or corporation that operates an information highway. The information highway shall enable the Commonwealth to benefit from cost-effective telecommunications technologies and shall provide opportunities for the private sector.

(3) Upon implementation, all agencies of the Commonwealth of Kentucky shall obtain all available communications services under contracts executed pursuant to subsection (2) of this section, except as provided under subsection (4) of this section.

(4) The secretary of the Finance and Administration Cabinet may grant exceptions to the mandatory use of the information highway upon good cause shown.

(5) Any contract awarded under subsection (2) of this section shall be deemed, for purposes of KRS 45A.050, a state agency price contract to which all political subdivisions and state-licensed nonprofit institutions of higher education may have access and use on the same terms as agencies of the Commonwealth of Kentucky. In addition, nonprofit schools providing elementary or secondary education and nonprofit health care organizations shall be allowed to have access and use the contract on the same terms as agencies of the Commonwealth of Kentucky. "Nonprofit schools" and "nonprofit health care organizations" mean those schools and health care organizations which have been granted tax-exempt status under the United States Internal Revenue Code.

(6) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which any entity that has been approved for economic development incentives under programs approved and administered by the Kentucky Economic Development Finance Authority may have access and use on the same terms as agencies of the Commonwealth of Kentucky.

(7) Any contract awarded under subsection (2) of this section shall be deemed a state agency price contract to which nonprofit organizations whose exclusive purpose is the delivery of services related to education, economic development, or cultural arts and humanities, may have access and use on the same terms as agencies of the Commonwealth of Kentucky. For the purposes of this section, "nonprofit organizations" means those organizations which have been granted tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code.

HB 910, AN ACT designating the official state bourbon festival.

WHEREAS, the Kentucky Bourbon Festival held annually in Bardstown, Kentucky, on the third weekend of September is the first and oldest Kentucky bourbon festival, having been established in 1991; and

WHEREAS, the Bardstown festival equally showcases all Kentucky distilleries and related industries for domestic and international visitors and press, with the 1999 festival attracting people from twenty states and ten foreign countries; and

WHEREAS, in addition to demonstrating the use of bourbon and bourbon by-products in cooking, agriculture, and aquaculture, the Kentucky Bourbon Festival provides food, arts and crafts, a variety of musical events, and an ever-increasing number of additional activities for children and adults that serve to promote the Commonwealth of Kentucky; and

WHEREAS, the proceeds from the Kentucky Bourbon Festival have benefited numerous nonprofit organizations and schools, a practice to be expanded by dedicating a portion of the proceeds from the September 13-17, 2000 Festival to the funding of a scholarship to be awarded to the child of a distillery worker;

NOW, THEREFORE,

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The Kentucky Bourbon Festival, Incorporated, of Bardstown, Kentucky, is named and designated the official state bourbon festival.

HJR 113, A JOINT RESOLUTION relating to the recognition of Chief Justice Frederick M. Vinson.

WHEREAS, Kentuckian Abraham Lincoln served as President of the United States, leader of the Executive Branch of the Federal Government, and his service is recognized with a statue in the rotunda of Kentucky's State Capitol; and

WHEREAS, Kentuckian Henry Clay served as Speaker of the House of Representatives, leader of the Legislative Branch of the Federal Government, and his service is recognized with a statue in the rotunda of Kentucky's State Capitol; and

WHEREAS, Kentuckian Fred M. Vinson served as Chief Justice of the United States, leader of the Judicial Branch of the Federal Government, but his service has never been recognized with a statue or bust in Kentucky's State Capitol; and

WHEREAS, Frederick M. Vinson was born January 20, 1890 in Louisa, Kentucky, received his formal education in the public schools of Boyd County and at Centre College, was a veteran of World War I, served as Commonwealth's attorney, was elected to the United States House of Representatives from 1923 to 1938 (except for one two-year period), and served as Judge of the Court of Appeals of the District of Columbia, Chief Judge of the Emergency Court of Appeals for Price Control, Director of Economic Stabilization, Federal Loan Administrator, Director of War Mobilization and Reconversion, and Secretary of the Treasury; and

WHEREAS, Frederick M. Vinson was appointed by President Harry S. Truman to be the thirteenth Chief Justice of the United States; and

WHEREAS, Chief Justice Vinson served from 1946 until his untimely death in 1953, after which he was buried in Pine Hill Cemetery in Louisa, Kentucky; and

WHEREAS, Chief Justice Vinson is one of only sixteen people in the history of the United States to hold the office of Chief Justice of the United States, and he rendered distinguished service to his county, district, state, and nation; and

WHEREAS, the year 2003 will mark the fiftieth anniversary of the death of Chief Justice Frederick M. Vinson;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Historical Society, the Division of Historic Properties in the Finance and Administration Cabinet, and the Historic Properties Advisory Commission, in consultation with the Court of Justice and the Kentucky Bar Association, shall plan and implement an appropriate recognition of the service and the fiftieth anniversary of the death of Chief Justice Frederick M. Vinson. The recognition may include the commissioning and placement of an appropriate statue or bust of Chief Justice Vinson in an appropriate position of honor in the State Capitol.

Section 2. The Kentucky Historical Society, the Division of Historic Properties, and the Historic Properties Advisory Commission shall jointly report to the 2002 Session of the General Assembly on the plan for recognition of Chief Justice Vinson, including plans or recommendations relating to the placement of a statue or bust of Frederick M. Vinson in the State Capitol.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Agricultural and Small Business: **HB 940, HB 941, HB 948, HB 979, HB 989**

Local Government: **HB 903, HB 999**

Economic Development: **HB 852, HB 902, SB 225**

State Government: **HR 140**

Motions, Petitions, and communications (Continued)

Representative Ratliff moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Ratliff moved that he be recorded as voting "yea" on **HB 805**. Agreed.

Representative Ratliff moved that his vote be changed from "yea" to "nay" on **HB 712**. Agreed.

Representative Ratliff moved that his vote be changed from "nay" to "yea" on **HB 100**. Agreed.

Representative L. Belcher moved that **HB 211** and **HB 251** be withdrawn. Agreed.

Representative Stewart moved the adoption of the following **Legislative Citation No. 94**.

The House of Representatives of the Commonwealth of Kentucky hereby offers sincerest commendation and applause to Kyle S. Campbell upon capturing the Amateur Pole Bending World Champion Title for his phenomenal premier performance in the 1999 American Quarter Horse Association World Championship Show in Oklahoma City, Oklahoma. Riding against thirty-eight other contenders, and having qualified two horses for the Junior and Senior Pole Bending finals, as well as qualifying the Senior horse for the Amateur Barrel and Pole finals, Mr. Campbell placed eighth in the Senior Pole finals before his tremendous victory atop the sorrel gelding, I am A Venterized Man, with an impressive time of 20.794 seconds. Pole Bending is a competition whereby six poles are spaced twenty-one feet apart and through which the horse and rider must run the full length of the course before returning to the other end, weaving in and out of the poles. Horse and rider then return to the other end of the course, again weaving in and out of the poles, before racing to the finish after turning the last pole. Inasmuch as this difficult event requires full concentration and a high level of skill by both horse and rider, Kyle S. Campbell, who has ridden for only three years, is offered sincerest praise for having demonstrated such tremendous talent and ability in this intricate event. The members of this august body are delighted to join with Representative Jim Stewart in offering congratulations to Kyle S. Campbell upon this well-deserved victory and in extending best wishes for continued landmarks of success. Done in Frankfort, this seventh day of March, in the year two thousand.

Legislative Citation No. 94 was adopted without objection.

Representative Buckingham moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Buckingham moved that he be recorded as voting "yea" on **HB 875**. Agreed.

Representative Hoffman moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Hoffman moved that his vote be changed from "nay" to "yea" on **HB 1**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that he be recorded as voting "nay" on **HB 382**. Agreed.

Representative Crall moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crall moved that his vote be changed from "nay" to "yea" on **HCR 82**. Agreed.

Representative L. Clark moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Clark moved that he be recorded as voting "yea" on **HB 526**. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "yea" on **HB 712**. Agreed.

Representative Westrom moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Westrom moved that she be recorded as voting "yea" on **HB 452**. Agreed.

Representative Yonts moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Yonts moved that his vote be changed from "nay" to "yea" on **HB 598** and **HB 452**. Agreed.

Representative Geveden moved that the rules be suspended for the purpose of recording votes. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HB 292** and **HB 806**. Agreed.

Representative Geveden moved that he be recorded as voting "yea" on **HCR 108**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 782**, by Representative Crimm:

On page 2, line 24, after the "(2)" insert "***(a)***"; and

On page 2, after line 26 and before line 27, add the following new language:

"***(b) The cabinet shall, in counties containing a city of the first class, exempt vehicles manufactured in the last three (3) years or less from inspection under a vehicle emission control program as defined in Section 1 of this Act.***".

Floor Amendment No. 8 to the Committee Substitute to **HB 611**, by Representative McKee:

On page 13, line 4, after "***local***", by inserting "***agricultural***".

Floor Amendment No. 1 to **HB 709**, by Representative C. Belcher:

On page 2, line 5, after "***overpayment***" by inserting "***of a health insurance claim***".

Floor Amendment No. 9 to the Committee Substitute to **HB 611**, by Representative Nunn:

On page 11, line 18, after "***support.***" by inserting "***The board shall seek legal assistance from the county attorneys' office and financial and accounting assistance from the county treasurer.***"

Floor Amendment No. 10 to the Committee Substitute to **HB 611**, by Representative Nunn:

On page 13, line 5, after "***counties***" by inserting "***. Before making a grant, the project shall be summarized and set out in all newspapers serving the county and include an explanation that comments from the public on the project may be submitted to the board. The board shall consider all public comments when making grants for local economic development***"; and

On page 11, line 23, after "***board.***" by inserting a new paragraph "***(f) All meetings of local tobacco assistance boards shall comply with the requirements for open meetings of public agencies according to KRS 61.805 to 61.850.***"

Floor Amendment No. 11 to the Committee Substitute to **HB 611**, by Representative Nunn:

On page 11, line 10, after "***county;***" by deleting "***and***"; and

on line 13, after "***paragraph***" by inserting "***; and***

5. The county judge/executive or mayor of an urban-county and the mayor of the largest city in the county or urban-county".

Floor Amendment No. 12 to the Committee Substitute to **HB 611**, by Representative Sims:

On page 15, line 7, after "***possible***", by inserting "***, and shall be diverse in gender***".

Floor Amendment No. 13 to **HB 611**, by Representative Sims:

On page 2, line 23, after "***Representatives***", by inserting "***who shall have agricultural experience and shall be diverse in gender***".

Floor Amendment No. 14 to the Committee Substitute to **HB 611**, by Representative Sims:

On page 7, line 10, after "***,***", by inserting "***the local tobacco assistance fund created in Section 8 of this Act,***"; and

On page 7, line 11, by replacing "***fund***" with "***funds***"; and

On page 7, line 21, after "***funds***", by inserting "***and account***"; and

On page 7, line 26, by replacing "***fund's***" with "***funds'***"; and

On page 8, line 9, after "***;***", by inserting "***and***"; and

On page 9, line 1, by replacing "***(3)***" with "***(1)***"; and

On page 9, line 24, after "***the***", by deleting the remainder of the line and lines 25 through "***the***" in line 27; and

On page 10, line 2, by replacing "***(4)***" with "***(3)***"; and

On page 10, by deleting subsection ***(3)*** in its entirety; and

On page 10, line 22, by replacing "***(4)***" with "***(3)***"; and

On page 10, line 23, after "***to***", by deleting the rest of the line and inserting "***devise a plan for the county that would utilize the programs best suited for the agricultural members of the county.***"; and

On page 10, line 24, after "***shall***", by deleting the rest of the paragraph through page 11, line 3 and inserting "***assist prospective applicants in the board's county in obtaining moneys from the fund.***"; and

On page 11, line 24, by replacing "***(5)***" with "***(4)***"; and

On page 11, line 26, after "***Offices***", by deleting "***and the Department of Agriculture***"; and

On page 12, line 21, by replacing "***(6)***" with "***(5)***"; and

On page 12, line 22, by replacing "***(5)***" with "***(4)***"; and

On page 13, line 4, after "***local***", by inserting "***agricultural***"; and
On page 13, line 18, by replacing "***(5)***" with "***(4)***"; and
On page 13, line 19, by replacing "***(5)***" with "***(4)***" and "***(7)***" with "***(6)***".

Floor Amendment No. 3 to the Committee Substitute to **HB 537**, by Representative Damron:

On page 115, line 3, by inserting after "Section 43." the following:

"KRS 161.507 is amended to read as follows:

(1) An active contributing member of the Teachers' Retirement System may receive service credit for active service rendered in the uniformed services of the Armed Forces of the United States, including the commissioned corps of the Public Health Service, subject to the provisions of the Uniformed Services Employment and Reemployment Rights Act of 1994 and to administrative regulations promulgated by the board of trustees. Military service includes service in the uniformed services that occurs before the employment of a member in a position covered by the retirement system or where a member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services. Service in the uniformed services also includes uniformed service that occurs after employment in a position covered by the retirement system where the member has given advance written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment. Military service may be credited only if discharge was honorable or was not terminated upon the occurrence of any of the events listed in 38 U.S.C. sec. 4304. Service shall be considered as Kentucky teaching service, except that service may not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1) unless the service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returned directly from uniformed services to covered employment. A maximum of six (6) years of military service may be credited, but in no case a greater number of years than the actual years of contributing service in Kentucky.

(2) No credit shall be granted for military service which has been or will be used in qualifying for annuity benefit payments from another retirement system financed wholly or in part by public funds.

(3) A member having twenty (20) years or more of active duty in the military service, and who is qualified for regular federal retirement benefits based on this military service, may not receive credit for any military service in the Teachers' Retirement System. This subsection shall apply to service presented for credit on July 1, 1975, and after this date.

(4) (a) A member receiving retirement credit for active duty in the armed services of the United States prior to employment in a position covered by the retirement system or where the member leaves covered employment without giving advance written or verbal notice of performing duty in the uniformed services shall contribute to the retirement system an amount equal to thirty-five percent (35%) of the actuarial cost for each year of service for which the member is receiving credit. Two percent (2%) of the thirty-five percent (35%) required payment shall be allocated to the medical insurance fund. These contributions shall not be picked up, as described in KRS 161.540(2). In purchasing retirement credit for active duty in the armed services, the latest years of service shall be considered first in allowing credit toward retirement. The board of trustees shall adopt a table of actuarial factors to be used in calculating the amount of contribution required for crediting this service.

(b) If military service occurred after the member gave written or verbal notice of performing duty in the uniformed services and the member returns directly from uniformed services to covered employment, the member shall contribute the regular member contribution required by KRS 161.540. The member may make the payment of delayed contributions in a lump sum payment or in installments not to exceed five (5) years beginning with the member's date of reemployment. Interest at the rate of eight percent (8%) per annum shall be charged for delayed contributions beginning with the member's date of reemployment until paid.

(5) An active contributing member of the Teachers' Retirement System may receive service credit for service in the military reserves of the United States or the National Guard. The member may purchase one (1) month of service for each six (6) months of service in the reserves or the National Guard. ***Notwithstanding any other statute, regulation, or policy to the contrary, the system shall provide a member, upon request, the estimated actuarial cost of the National Guard or military reserves service purchase based upon the information available at the time of the request. The member shall be entitled to enter into a contract with the systems at the time of the request to purchase the National Guard or military reserve service by paying to the system the estimated actuarial cost, either by installments or in lump sum.*** ~~[The member shall pay the full actuarial cost of the service in the military reserves or the National Guard.]~~ Service in the military reserves or the National Guard shall be treated as service earned prior to participation in the system and shall not be used for meeting the service requirements set forth in KRS 161.600(1)(a) or 161.661(1). The payment shall not be picked up by the employer, as described in KRS 161.540(2).

Section 44.".

Floor Amendment No. 1 to **HB 704**, by Representative Haydon:

On page 1, line 3, after "***Buses***" by inserting "***properly titled in a foreign jurisdiction, which are subject to apportionment registration, that are used exclusively for charter or tour services as defined in Section 6 of this Act***" and by deleting the remainder of the line in its entirety; and

On page 1, line 4 by deleting "***charter bus certificate under KRS 281.637***"; and

On page 4, after line 20 but before line 21 by inserting the following:

"Section 6. KRS 136.010 is amended to read as follows:

As used in this chapter, except for KRS 136.500 to 136.575, unless the context requires otherwise:

(1) "Real property" includes all lands within this state and improvements thereon.

(2) "Personal property" includes every species and character of property, tangible and intangible, other than real property.

(3) "Tax exempt United States obligations" shall include all obligations of the United States exempt from taxation under 31 USC Section 3124(a) or exempt under the United States Constitution or any federal statute including the obligations of any instrumentality or agency of the United States which are exempt from state or local taxation under the United States Constitution or any statute of the United States.

(4) "Out-of-state business property" means all real and personal property having a taxable situs outside this state owned by a corporation for use in the active conduct of a trade or business.

(5) "Charter services" means an irregular route to transport a group of persons who, under a contract, have acquired the exclusive use of a motor vehicle to travel together as a group to a specified destination for a particular itinerary, either agreed upon in advance or modified by the charter group after having left the place of origin, and operating under a certificate or permit issued by the United States Department of Transportation.

(6) "Tour service" means a tour operator that through individual tour packages furnishes some other services, such as accommodations, meals or tickets to an event or attraction, in addition to the transportation service, as part of the package."; and by renumbering subsequent sections to conform.

Floor Amendment No. 4 to the Committee Substitute to **HB 537**, by Representative Geveden:

On page 6, line 13, by deleting "*23*" and inserting in lieu thereof "*21*"; and

On page 8, line 16, by inserting after "(e)" the word "*A*" and by bracketing and striking through the word "No"; and

On page 8, by deleting lines 17 and 18 in their entirety and inserting in lieu thereof the following:

"be accepted and ***reconsidered***[~~considered~~] for disability ***if***[~~for any person who has previously applied for and been denied disability benefits unless it is~~]"; and

On page 8, line 19, by placing a "*.*" after the word "evidence"; and

On page 8, line 20, by placing an end bracket after the word "section." and by removing the strikethrough from the word "The"; and

On page 8, lines 21 through 23, by removing the strikethroughs and end bracket; and

On page 8, line 27, by deleting the underlined language; and

On page 9, lines 1 through 7, by deleting the underlined language and by removing the brackets and strikethroughs; and

On page 9, lines 12-16, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 10, lines 3 through 7, by deleting the underlined language; and

On page 16, line 8, by deleting "*32*" and placing in lieu thereof "*30*"; and

On page 16, line 19, by deleting "*34*" and placing in lieu thereof "*32*"; and

On page 50, line 5, by deleting "*23*" and placing in lieu thereof "*21*"; and

On page 55, line 8, by inserting after the "(e)" the word "*A*" and by bracketing and striking through the word "No"; and

On page 55, by deleting lines 9 and 10 in their entirety and inserting in lieu thereof the following:

"be accepted and ***reconsidered***[~~considered~~] for disability ***if***[~~for any person who has previously applied for and been denied disability benefits unless it is~~] "; and

On page 55, line 11, by inserting "*.*" after the word "evidence"; and

On page 55, line 12, by placing an end bracket after the word "section." and by removing the strikethrough from the word "The"; and

On page 55, lines 13 through 15, by removing the strikethroughs and end bracket; and

On page 55, lines 25 through 27, by deleting the underlined language; and

On page 56, lines 1 through 5, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 56, lines 8 through 15, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 56, lines 23 through 27, by deleting the underlined language; and

On pages 59 to 64, by deleting Section 21 and Section 22 in their entirety and renumbering the remaining sections accordingly; and

On page 75, lines 13 through 19, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 81, lines 25 through 27, by deleting the underlined language; and

On page 82, lines 1 and 2, by deleting the underlined language; and

On page 89, line 16, by deleting "***30***" and placing in lieu thereof "***28***"; and

On page 90, lines 3 through 13, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 90, lines 22 through 25, by deleting the underlined language between the "***(c)***" and the word "***For***" ; and

On page 91, lines 13 through 20, by removing the brackets and strikethroughs; and

On page 91, line 26, by deleting the underlined "***.***"; and

On page 92, lines 4 through 27, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 93, lines 1 through 11, by removing the strikethroughs and the end bracket; and

On page 93, line 12, by deleting the "***4.***"; and

On page 93, line 23, by deleting the "***5.***"; and

On page 95, lines 7 through 21, by deleting the underlined language and removing the brackets and strikethroughs; and

On page 99, line 14, by deleting "***34***" and placing in lieu thereof "***32***"; and

On page 99, line 18, by deleting "***33***" and placing in lieu thereof "***31***" and on line 19 by deleting "***41***" and placing in lieu thereof "***39***"; and

On page 101, line 4, by deleting "***28***" and placing in lieu thereof "***26***"; and

On page 103, line 18, by deleting "***38***" and placing in lieu thereof "***36***"; and

On page 103, lines 23 and 24, by deleting the "***,***" and by removing the brackets and strikethroughs; and

On page 104, lines 5 through 12, by removing the brackets and strikethroughs; and

On page 110, line 19, by deleting "***32***" and placing in lieu thereof "***30***"; and

On page 113, line 6, by deleting "***23***" and placing in lieu thereof "***21***"; and

On page 114, line 17, by deleting "***34***" and placing in lieu thereof "***32***".

Floor Amendment No. 3 to **HB 875**, by Representative Wilkey:

On page 4, line 2, by deleting "***permitted under***" and inserting in lieu thereof "***authorized by***".

Floor Amendment No. 15 to the Committee Substitute to **HB 611**, by Representative Barrows:

on page 5, line 13, after "***income.***", by adding the following: "***The board shall also consider the general improvement of Kentucky's agricultural economy.***"; and

on page 7, line 23, after "***entities,***", by inserting "***agricultural cooperatives,***"; and

on page 8, line 11, by deleting "***as follows***" and replacing it with "***according to the following target percentages, allowing some discretion to the Rural Development Board***"; and

on page 8, line 23, by deleting "***easement***" and inserting "***easements and to provide***"; and

on page 11, lines 7 and 8, by deleting "***Natural Resources Conservation Service***"; and replacing it with "***county conservation district***"; and

on page 11, line 27, by deleting "***distributed to accounts***" and inserting "***allotted***"; and

on page 12, lines 1 and 2, by deleting "***within twenty (20) days of receipt of moneys in the local tobacco assistance fund each year***"; and

on page 12, line 2, by deleting "***amount going to accounts created***" and replacing it with "***allocation***"; and

on page 12, line 8, by deleting "***and***"; and

on page 12, line 20, by deleting "***.***" and inserting "***; and***" in lieu thereof; and on page 12, after line 20 by inserting the following:

"***(d) If the amount calculated for any county's allocation in a year is less than one quarter of one percent (0.25%) of the funds for all counties' allocations under this section for a year, the funds for that county shall not be allocated to the county, but shall be assigned to the state tobacco assistance fund described in Section 7 of this Act.***"; and

on page 13, line 4, after "***(b)***" by inserting "***Funds may be used for buy-down on current agricultural loans***"; and

on page 13, line 4, before "***Funds***", by inserting "***(c)***" and after "***local***", by inserting "***agricultural***"; and

on page 13, line 6, by changing "***(c)***" to "***(d)***"; and

on page 13, line 8, by deleting "***and***"

on page 13, on line 9, by changing "***(d)***" to "***(e)***", and by inserting "***Funds may be used for programs to assist farmers in transitioning from one type of farming to another or from farming to another vocation; and***"; and

on page 13, on line 9 before "***Eligibility***" by inserting "***(f)***", and by changing "***(c)***" to "***(e)***"; and

on page 14, line 2, after "***Act.***" by inserting "***If the amount calculated for any county's allocation in a year is less than one quarter of one percent (0.25%) of the funds for all counties' allocations under subsection (5) of Section 8 of this Act for a year, the funds for that county shall not be allocated to the county, but shall be assigned to the state tobacco assistance fund described in Section 7 of this Act.***"; and

on page 14, line 4, after "***Board.***" by inserting "***In evaluating these projects, the board shall provide some consideration to the project's coordination and compatibility with board projects in Section 6 of this Act.***" and

on page 14, line 5, after "***individuals***" by inserting "***groups of individuals, cooperatives,***"

Floor Amendment No. 1 to **HB 719**, by Representative Collins:

On page 3, line 10, after "***paid***" insert "***by the taxpayer only***"; and

On page 3, lines 10 to 11, delete "***its recordation in the clerk's office***" and insert in lieu thereof "***the sheriff's sale***".

Floor Amendment No. 1 to **HB 722**, by Representative Allen:

On page 1, line 3, by removing the brackets and strikethroughs.

Floor Amendment No. 19 to **SJR 57**, by Representative Geveden:

On page 1, immediately following the title, by inserting the following:

"WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship...May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and figtree, and there shall be none to make him afraid"; and".

Floor Amendment No. 16 to the Committee Substitute to **HB 611**, by Representative Ratliff:

On page 16, line 21, before "Section 12." by inserting "SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "Unmined Minerals Tax Reimbursement Fund" is created in the State Treasury. The fund shall receive all money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654.

(2) Money in the unmined minerals tax reimbursement fund shall be annually allocated to counties that have ever had land assessed for the value of unmined coal for the purposes of the state unmined minerals tax. The allocations shall reimburse the county for all unmined minerals taxes collected on coal reserves generated from the county and paid to the state. The reimbursement shall include legal interest.

(3) After all unmined minerals taxes collected on coal reserves have been reimbursed, the money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654, shall be allocated as set out in Sections 1 to 11 of this Act."; and

on line 21, by renumbering "Section 12." as "Section 13."; and

on line 22, by renumbering "Section 13." as "Section 14.".

Floor Amendment No. 17 to the Committee Substitute to **HB 611**, by Representative Ratliff:

On page 16, line 21, before "Section 12." by inserting "SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "Coal Severance Tax Reimbursement Fund" is created in the State Treasury. The fund shall receive all money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654.

(2) Money in the coal severance tax reimbursement fund shall be annually allocated to counties that have ever been the site of coal extraction or processing which has generated revenues to the state pursuant to KRS 143.020. The allocations shall reimburse the county for all coal severance taxes ever generated from the county and paid to the state. The reimbursement shall include legal interest.

(3) After all severance taxes have been reimbursed, the money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654, shall be allocated as set out in Sections 1 to 11 of this Act."; and

on line 21, by renumbering "Section 12." as "Section 13."; and

on line 22, by renumbering "Section 13." as "Section 14.".

Floor Amendment No. 12 to the Committee Substitute to **HB 1**, by Representative Anderson:

On page 1 after the enacting clause to page 16, line 3, by deleting sections 1 through 18 in their entirety and inserting the following in lieu thereof:

"SECTION 1. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 10 of this Act:

(1) "Bottler" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each bottler location shall be considered a separate bottler;

(2) "Beverage distributor" means any person who bottles, cans, or otherwise fills containers with beverages for sale to distributors or retailers. Each beverage distribution location shall be considered a separate beverage distributor;

(3) "Distributor" means any person who distributes goods or property other than containers with beverages to a retailer;

(4) "Manufacturer" means any person who manufactures, fabricates, produces, processes, assembles, combines, or takes any other action upon any product or property to create a new, different, or modified product that may be sold at wholesale or retail, or may be acted upon further by another process; and

(5) "Retailer" means any person who sells goods or property for use or consumption. Each retail location shall be considered a separate retailer.

SECTION 2. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Every beverage distributor doing business in Kentucky shall pay an environmental impact fee annually in the amount of two thousand dollars ($2,000);

(2) Every distributor, bottler, manufacturer, and retailer conducting business as defined at KRS 139.040 in this state shall pay an environmental impact fee annually based upon their annual taxable receipts as reported for Kentucky sales tax purposes. Each bottler location, beverage distributor location, and retail location shall pay the annual impact fee based upon annual taxable receipts as reported for Kentucky sales tax purposes plus alcohol beverage sales receipts, at that location only. The amount of the fee shall be as follows:

- *(a) For annual taxable receipts for sales tax purposes in excess of ten million dollars ($10,000,000), the fee shall be two thousand dollars ($2,000);*
- *(b) For annual taxable receipts for sales tax purposes of at least one million dollars ($1,000,000) but not more than ten million dollars ($10,000,000), the fee shall be one thousand five hundred dollars ($1,500);*
- *(c) For annual taxable receipts for sales tax purposes of at least five hundred thousand dollars ($500,000) but not more than one million dollars ($1,000,000), the fee shall be one thousand dollars ($1,000);*
- *(d) For annual taxable receipts for sales tax purposes of at least two hundred thousand dollars ($200,000) but not more than five hundred thousand dollars ($500,000), the fee shall be five hundred dollars ($500); and*
- *(e) For annual taxable receipts for sales tax purposes of less than two hundred thousand dollars ($200,000), there shall be no fee.*

(3) No distributor or manufacturer, regardless of the number of locations, shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually. No bottler location, beverage distributor location, or retail location shall be assessed more than two thousand dollars ($2,000) in environmental impact fees annually.

(4) Notwithstanding the definition of "retailer" in Section 1 of this Act, if more than one (1) retail location is exempted from an environmental impact fee according to subsection (2)(e) of this section, those retail locations shall combine their annual taxable receipts and pay the fee based on the scale established in subsection (2) of this section.

SECTION 3. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A trust fund, which shall be known as the "Kentuckians Against Trash Fund" is hereby created in the State Treasury of the Commonwealth to be administered by the Revenue Cabinet and overseen by the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. All payments collected under Sections 2 and 9 of this Act shall be deposited in the Kentuckians Against Trash fund. The fund may receive state appropriations, gifts, grants, and federal funds. The fund shall be maintained as a separate and distinct interest-bearing account, and all interest accrued shall be credited to the fund.

(2) Money in the fund shall be used as follows:

(a) Eighteen percent (18%) to be used by the Department of Transportation for cleanup of litter along interstates and state highways, including rural secondary roads;

(b) Thirty percent (30%) to be distributed to the governing body of the one hundred and twenty (120) counties based on the number of miles of county and rural secondary roads within each county for cleanup of roadside litter on roads other than interstates, state highways, and rural secondary roads;

(c) Thirty-eight percent (38%) to be distributed to the governing body of counties based on county population as determined by the most recent decennial census of the United States Census Bureau, except that the governing body of counties with cities of the first, second, third, and fourth classes shall divide the money between the county and the cities based on a per capita basis based on county and city population as determined by the most recent decennial census of the United States Census Bureau. In the first year of receiving fund money, a governing body of counties without established universal garbage collection shall use the money to implement a universal garbage collection program. No governing body shall use fund money at any time to supplement solid waste pick-up fees other than for low income households as defined by the cabinet. The priority of application and use of the moneys for governing bodies of counties with established universal garbage collection programs, and for governing bodies of counties without established universal garbage collection programs for subsequent years after the first year, shall be as follows:

1. Maintenance of universal garbage collection as defined in Section 19 of this Act;

2. Cleanup of illegal dumps;

3. Development or expansion of recycling programs, including the purchase of infrastructure and equipment necessary for recycling;

4. Solid waste and recycling education; and

5. Additional solid waste or recycling programs and activities as approved by the cabinet.

(d) Ten percent (10%) to be used by the Legislative Research Commission for producing, purchasing, and airing public service announcements to reduce litter and encourage recycling;

(e) Two percent (2%) to be placed in the Adopt-a-Highway Fund created in Section 11 of this Act and used by the Department of Transportation Adopt a Highway program;

(f) One percent (1%) to be used by the Revenue Cabinet for administrative costs associated with collecting and distributing the environmental fee; and

(g) One percent (1%) to be used by the Natural Resources and Environmental Protection Cabinet for administrative costs associated with reviewing county solid waste management plans and promulgating reporting requirements.

SECTION 4. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) There is created the Kentuckians Against Trash Oversight Committee that shall consist of nineteen (19) members appointed by the Legislative Research Commission. Members shall include the following:

(a) Four (4) members of the General Assembly, two (2) of whom shall be members of the House and two (2) of whom shall be members of the Senate. Two (2) of the members shall serve on the Interim Joint Committee on Agriculture and Natural Resources. One (1) member of the House and one (1) member of the Senate shall serve as co-chairs of the committee;

(b) One (1) representative of the Natural Resources and Environmental Protection Cabinet;

(c) One (1) representative of the Transportation Cabinet;

(d) One (1) representative of the Environmental Quality Commission;

(e) One (1) representative of the Kentucky League of Cities;

(f) One (1) representative of the Kentucky Association of Counties;

(g) One (1) representative of the Solid Waste Coordinators of Kentucky;

(h) One (1) representative of the Kentucky Resources Council;

(i) One (1) representative of the Kentucky Farm Bureau;

(j) One (1) representative of the Kentucky Scrap Processors and Recyclers Association;

(k) One (1) representative of the Bluegrass Regional Recycling Corporation;

(l) One (1) representative of the Kentucky Retail Federation;

(m) One (1) representative of the Kentucky Beer Wholesalers Association;

(n) One (1) representative of the Kentucky Bottlers Association;

(o) One (1) representative of the Kentucky Grocers Association; and

(p) One (1) representative of the Wine and Spirits Wholesalers of Kentucky.

(2) Of the twelve (12) members identified in paragraphs (e) to (p) of subsection (1) of this section and first appointed, four (4) shall continue as members for terms of one (1) year, four (4) for terms of two (2) years, and four (4) for terms of three (3) years, as the Legislative Research Commission designates. At the expiration of the original terms and for all succeeding terms, the Legislative Research Commission shall appoint a successor to the committee for a term of three (3) years. Members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(3) Ten (10) members shall constitute a quorum.

(4) The committee shall meet at least once every three (3) months, the time and place to be determined by the co-chairs of the committee. The committee shall keep an accurate record of its proceedings.

(5) Staff services shall be provided by the Legislative Research Commission.

(6) The members shall serve without compensation but may receive reimbursement from the Legislative Research Commission for their actual and necessary expenses to attend committee meetings.

SECTION 5. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) The committee shall review reports from the Legislative Research Commission and from the cabinets that receive money according to Section 3 of this Act. These reports shall include a breakdown of the use of fund money. The Revenue Cabinet and the Natural Resources and Environmental Protection Cabinet shall report how the money is used for administrative costs. The Legislative Research Commission shall report on the use of fund money for, and the status of, the public service announcement campaign. The Transportation Cabinet shall report on the use of fund money and progress made by the Adopt-A-Highway program. These reports shall be filed with the committee by July 31 of each year, beginning with July 31, 2002.

(2) A governing body shall file a report as required by the cabinet according to Section 8 of this Act. The reports shall contain information about how the money is appropriated in counties and cities, the progress made in reducing litter, the status of county or city solid waste management activities, and any additional information the committee may request.

(3) The committee shall issue a report to the Legislative Research Commission by September 30 of every odd-numbered year that includes a breakdown of the use of fund money, the progress made in reducing litter, the status of the public service announcement campaign, and any additional findings of the committee. The report may make recommendations to the General Assembly on ways to further the goals and purposes of Sections 1 to 10 of this Act.

SECTION 6. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) A governing body shall demonstrate in its solid waste management plan or on other forms prescribed by the cabinet, how its area shall use the fund money received under Section 3 of this Act. The governing body shall demonstrate how the intended use of fund money fits within the area solid waste management plan required by KRS 224.43-345, or update the plan accordingly. The cabinet shall approve the governing body's intended use of fund money before it is eligible to receive money to ensure that the intended use complies with the priorities established in subsection (2) of Section 3 of this Act.

(2) The cabinet may promulgate administrative regulations to carry out the requirements of this section.

SECTION 7. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Beginning no later than June 30, 2002, and annually thereafter, the Auditor of Public Accounts shall be responsible for an audit of the Kentuckians against trash fund and the cost of the audit shall be considered an administrative cost to be borne by the Revenue Cabinet. Within sixty (60) days of completion of the audit, the Auditor of Public Accounts shall submit a copy of

the audit to the Legislative Research Commission and the Interim Joint Committee on Agriculture and Natural Resources.

SECTION 8. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Governing bodies receiving moneys according to Section 3 of this Act shall establish a line item in their budget to account for the money received. A proposed county budget required in KRS 68.240 shall include anticipated money to be received under Section 3 of this Act.

(2) The cabinet shall establish by administrative regulations reporting requirements for expenditure of funds and receipt of unobligated funds by governing bodies. If a governing body fails to comply with the requirements of these administrative regulations, money from the fund shall be withheld from the governing body for the next year.

(3) The cabinet shall prepare and furnish summaries of reports to the Kentuckians Against Trash Oversight Committee established in Section 4 of this Act. The committee may request a copy of the original report required in this section.

SECTION 9. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

(1) Any bottler, beverage distributor, distributor, manufacturer, or retailer who violates Section 2 of this Act shall be subject to a civil penalty of not more than one thousand dollars ($1,000) for an initial offense and not more than five thousand dollars ($5,000) for each subsequent offense. Each day that a person violates Section 2 of this Act shall constitute a separate offense.

(2) All moneys collected under this section shall be deposited in the Kentuckians Against Trash Fund.

SECTION 10. A NEW SECTION OF SUBCHAPTER 43 OF KRS CHAPTER 224 IS CREATED TO READ AS FOLLOWS:

Sections 1 to 10 of this Act shall automatically be repealed and all requirements set forth therein, including without limitation the environmental impact fees created by Section 2 of this Act, along with any administrative regulations promulgated according to Sections 1 to 10 of this Act, shall terminate immediately upon enactment of any Constitutional amendment, law, or administrative regulation which in any manner establishes a refund value, required deposit, or similar requirement for beverage or other similar containers sold in the Commonwealth."; and

Renumber subsequent sections accordingly; and

On page 16, lines 22 and 23, by deleting them in their entirety; and

On page 16, line 24, by changing "*(5)*" to "*(4)*"; and

On page 17, line 27, by changing "*25*" to "*17*"; and

On page 18, line 3, by changing "*25*" to "*17*"; and

On page 18, line 21, by changing "*22*" to "*14*"; and

On page 19, line 16, by changing "*22*" to "*14*"; and

On page 20, line 13, by changing "*22*" to "*14*"; and

On page 20, line 17, by changing "*20*" to "*12*"; and

On page 20, line 18, by changing "*22*" to "*14*"; and

On page 20, line 21, by changing "*22*" to "*14*"; and

On page 30, lines 17 and 18, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 30, line 23, after "***county***", by inserting "***or governing body***"; and

On page 30, line 25, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 9, by deleting "***county, urban-county, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 16, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, line 18, by deleting "***bulk***"; and

On page 31, line 19, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 31, lines 20 and 21, by deleting "***and to any waste management district of which it is a member***"; and

On page 31, line 27, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing***

body" in lieu thereof; and

On page 32, lines 2 and 3, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 8, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 9, by deleting "***requirements of this section***" and inserting "***requirement of universal collection***" in lieu thereof; and

On page 32, lines 12 and 13, by deleting "***county, urban-county government, charter county government or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 14, after "***waste***" by inserting "***in its area***"; and

On page 32, lines 17 and 18, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On page 32, line 18, after "***waste***" by inserting "***in its area***"; and

On page 32, line 22, by deleting "***county, urban-county government, charter county government, or city***" and inserting "***governing body***" in lieu thereof; and

On pages 32, line 27, and page 33, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 2, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, line 8, by changing "***26***" to "***20***"; and

On page 33, line 9, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 33, lines 20 and 21, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On pages 33, line 27, and page 34, line 1, by deleting "***county, urban-county government, or charter county government***" and inserting "***governing body***" in lieu thereof; and

On page 36, line 7, by deleting "***counties***" and inserting "***governing bodies***" in lieu thereof; and

On page 38, beginning with line 7 and continuing to page 41, through line 4, by deleting these lines in their entirety and renumbering subsequent sections accordingly; and

On page 41, lines 10 through 14, by deleting them in their entirety and renumbering subsequent sections accordingly; and

On page 41, after line 4, by inserting the following:

"Section 23. KRS 68.240 is amended to read as follows:

(1) The county judge/executive shall annually prepare a proposed budget for the expenditure of all funds, including those from state and federal sources, which are to be expended by the fiscal court in the next fiscal year. The proposed budget shall be classified into budget units as outlined in subsection (2) of this section. In addition to preparing a reasonable estimate of the funds actually needed for both general and special purposes, the county judge/executive shall prepare an estimated statement of receipts to be anticipated from local, state and federal sources. The county judge/executive shall submit the proposed budget and estimate of receipts to the fiscal court by May 1 of each year.

(2) The fiscal court, at a meeting or meetings held not later than June 1 of each year, shall make a detailed investigation of each separate activity of the county for which the county judge/executive proposes that county funds are to be expended by the fiscal court. All expenditures shall be classified into budget units as prescribed by the state local finance officer, including but not limited to:

(a) General expenses of county government.
(b) Protection to persons and property.
(c) General health and sanitation.
(d) Social services.
(e) Recreation and culture.
(f) Transportation facilities and services.
(g) Debt service.
(h) Administration and miscellaneous.
(i) Jail operations.

(3) The county budget shall have a fund known as the "sinking fund principal account" and a fund known as the "sinking fund

interest account." There shall be allocated annually to the sinking fund principal account a sum equal to the proportional yearly amount necessary to retire each bond issue of the county at maturity, and to the sinking fund interest account a sum equal to the interest on bonded indebtedness payable during the current budget year.

(4) The county budget shall include such budget units as may be required by the activities of the county. When necessary, the county budget may be subdivided into separate budget funds so that the cost of each class of expenditures can be ascertained at any time and regulated according to the financial condition and needs of the county.

(5) The funds set apart in the county budget for a budget unit, or any subdivision thereof, shall constitute a separate budget fund and shall be appropriated and accounted for separately.

(6) The county budget shall include a line item to account for money to be received according to Section 3 of this Act.

(7)[~~(6)~~]The fiscal court shall comment upon the proposed budget, and may amend it according to its desires prior to the date when it is sent to the state local finance officer according to the procedures of KRS 68.250."; and

Renumber subsequent sections accordingly; and

On page 41, line 15, by changing "18" to "10".

Floor Amendment No. 19 to the Committee Substitute to **HB 611**, by Representative McKee:

On page 7, line 10, after "***,***", by inserting "***the local tobacco assistance fund created in Section 8 of this Act,***"; and

On page 7, line 11, by replacing "***fund***" with "***funds***"; and

On page 7, line 21, after "***funds***", by inserting "***and account***"; and

On page 7, line 26, by replacing "***fund's***" with "***funds'***"; and

On page 8, line 9, after "***;***", by inserting "***and***"; and

On page 9, line 1, by replacing "***(3)***" with "***(1)***"; and

On page 9, line 24, after "***the***", by deleting the remainder of the line and lines 25 through "***the***" in line 27; and

On page 10, line 2, by replacing "***(4)***" with "***(3)***"; and

On page 10, by deleting subsection (3) in its entirety; and

On page 10, line 22, by replacing "***(4)***" with "***(3)***"; and

On page 10, line 23, after "***to***", by deleting the rest of the line and inserting "***devise a plan for the county that would utilize the programs best suited for the agricultural members of the county.***"; and

On page 10, line 24, after "***shall***", by deleting the rest of the paragraph through page 11, line 3 and inserting "***assist prospective applicants in the board's county in obtaining moneys from the fund.***"; and

On page 11, line 24, by replacing "***(5)***" with "***(4)***"; and

On page 11, line 26, after "***Offices***", by deleting "***and the Department of Agriculture***"; and

On page 12, line 21, by replacing "***(6)***" with "***(5)***"; and

On page 12, line 22, by replacing "***(5)***" with "***(4)***"; and

On page 13, line 4, after "***local***", by inserting "***agricultural***"; and

On page 13, line 18, by replacing "***(5)***" with "***(4)***"; and

On page 13, line 19, by replacing "***(5)***" with "***(4)***" and "***(7)***" with "***(6)***".

Floor Amendment No. 1 to **HB 750**, by Representative Cave:

On page 109, line 18, after "corporation" insert "***or labor union***"

On page 109, line 18 after "shall", insert "***, directly or indirectly by its board, shareholders, employees, agents, representatives, or members or their assets or funds,***"

Floor Amendment No. 18 to the Committee Substitute to **HB 611**, by Representative Barrows:

On page 13, line 15, delete "***and***"; and

On page 13, line 18, after "***year***" insert "***; and***

5. No member of a local tobacco assistance board, and no spouse, parent, sibling, child, stepchild, mother-in-law, father-in-law, son-in-law, daughter-in-law, grandparent, or grandchild of a member of a local tobacco assistance board shall be eligible for any funds, in their individual capacities, but may accept funds or the benefits of an approved program as a member of a cooperative or other organization receiving funds where the person is clearly not the direct recipient or

controlling interest".

Floor Amendment No. 1 to **HB 742**, by Representative Palumbo:

On Page 2, Lines 10 to 19 by deleting them in their entirety and inserting in lieu thereof,

"***(5) After complying with the provisions of this section and Section 2 of this Act, a purchase of development rights program authorized by KRS 67A.843 and KRS 67A.845 may include a public parks and maintenance program proposal authorized by KRS 97.590. In the case of a combined proposal, the urban-county government shall place before the voters a single ballot proposal that combines the purchase of development rights proposal and the public parks purchase and maintenance proposal. In that event, the proposal shall specify which tax levy or portion thereof shall provide funding for the purchase of development rights program proposal and which shall provide funding for the purchase of parks and maintenance program.***"; and

On Page 3, Line 27 and Page 4, Lines 1 to 3 by deleting the following words "***A purchase of development rights program proposal authorized by KRS 67A.843 and KRS 67A. 845 may be combined with a public parks purchase and maintenance program proposal authorized by KRS 97.590, if the provisions of this section and Section 1 of this Act are complied with.***" and inserting the following in lieu thereof, "***After compliance with the provisions of this section and Section 1 of this Act, a purchase of development rights program authorized by KRS 67A.843 and KRS 67A.845 may be combined with a public parks purchase and maintenance program proposal authorized by KRS 97.590.***"

Floor Amendment No. 20 to **SJR 57**, by Representative Riner:

On page 1, by deleting all whereas clauses on page 1 in their entirety; and

By deleting page 2, 3 and 4 in their entirety; and

by inserting in lieu thereof the following:

WHEREAS, the Framers of Kentucky's Constitution acknowledged Almighty God to be the source of the Commonwealth's public and private liberties in the following words:

> "We, the people of the Commonwealth of Kentucky, grateful to Almighty God for the civil, political and religious liberties we enjoy, and invoking the continuance of these blessings, do ordain and establish this Constitution"; and

WHEREAS, in 1992, the Kentucky General Assembly recognized in the enactment of KRS 158.195 that there is nothing in the Kentucky Constitution or the First Amendment to the United States Constitution which requires the rewriting of American or Kentucky history or the suppression or censorship of those histories for any reason, particularly because of any religious references in historic documents; and

WHEREAS, many of the Ten Commandments have been codified in Kentucky's civil and criminal laws and similarly in the legal codes of the other forty-nine states; and

WHEREAS, America's colonial governments adopted the Ten Commandments not as an object of worship or an icon, but as the basis for their civil and criminal law, as illustrated on April 3, 1644, when the New Haven Colony Charter was adopted establishing that "[t]he judicial laws of God, as they were delivered by Moses be a rule to all the courts in this jurisdiction"; and

WHEREAS, William Blackstone, Esq., eminent British jurist, Professor of Law, and legal scholar whose writings shaped the thoughts of the men who wrote the Declaration of Independence and the other founding documents of the Republic which became the authority for much of our original American system of jurisprudence, stated in his "Commentaries on the Laws of England" published in 1765: "[u]pon these two foundations, the law of nature and the law of revelation [the Bible] depend all human laws"; and

WHEREAS, when signing the Declaration of Independence on August 2, 1776, Samuel Adams, the "Father of the Revolution," emphasized the Biblical presuppositions of that document:

> "We have this day restored the Sovereign to whom all men ought to be obedient. He reigns in heaven and from the rising to the setting of the sun, let His kingdom come"; and

WHEREAS, on August 20, 1789, Congressman Fisher Ames from Massachusetts proposed the wording of the First Amendment which was adopted by the House of Representatives in the first session of the Congress of the United States; and his writings clearly demonstrate that the Framers never intended the First Amendment to be so interpreted as to require the removal of the Bible and the Ten Commandments from public school classrooms:

> "Should not the Bible regain the place it once held as a schoolbook? Its morals are pure, its examples are captivating and noble. . . . In no Book is there so good English, so pure and so elegant, and by teaching all the same they will speak alike, and the Bible will justly remain the standard of language as well as of faith"; and

WHEREAS, in an article published in "Palladium" magazine on September 20, 1789, Congressman Ames further amplified his concern that American education should include familiarity with the Bible:

> "We are spending less time in the classroom on the Bible which should be the principal text in our schools . . . The Bible states these great moral lessons better than any other manmade book"; and

WHEREAS, in a letter dated August 18, 1790, President George Washington wrote to the Hebrew Congregation in Newport, Rhode Island, "All possess alike liberty of conscience and immunities of citizenship...May the children of the stock of Abraham, who dwell in this land, continue to merit and enjoy the good will of the other inhabitants; while every one shall sit in safety under his own vine and figtree, and there shall be none to make him afraid"; and

WHEREAS, in his "Farewell Address" of September 19, 1796, President George Washington pointed out the connection between the faith of the Nation and its political prosperity when he declared:

> "Of all the dispositions and habits which lead to political prosperity, religion and morality are indispensable supports. . . . Let us with caution indulge the supposition, that morality can be maintained without religion. Whatever may be conceded to the influence of refined education on minds of peculiar structure, reason and experience both forbid us to expect that National morality can prevail in exclusion of religious principle"; and

WHEREAS, Noah Webster, the author of dictionaries and America's first speller, grammar, and reader (the famed 1783 "Blue-Backed Speller"), articulated the mindset of the Framers who presupposed a Biblical basis for law:

> "The moral principles and precepts contained in the Scriptures ought to form the basis for all our civil constitutions and laws. All the miseries and evils which men suffer from vice, crime, ambition, injustice, oppression, slavery and war proceed from their despising or neglecting the precepts contained in the Bible"; and

WHEREAS, acknowledging the Bible as an integral part of the fabric of our society, on September 11, 1777, the Continental Congress adopted a resolution to import 20,000 Bibles from Holland and Scotland, as the colonies were at war with England; and

WHEREAS, on May 29, 1845, the day before his death, President Andrew Jackson stated:

> "My lamp of life is nearly out, and the last glimmer has come. I am ready to depart when called. The Bible is true. The principles and statutes of that Holy Book have been the rule of my life, and I have tried to conform to its spirit as nearly as possible. Upon that sacred volume I rest my hope for eternal salvation, through the merits and blood of our blessed Lord and Saviour, Jesus Christ"; and

WHEREAS, on February 29, 1892, the United States Supreme Court, in a unanimous decision which has never been overruled, cited sixty-six authorities which show the Bible's singular influence on America:

> "There is no dissonance in these declarations. There is a universal language pervading them all, having one meaning; they affirm and reaffirm that this is a religious nation. These are not individual sayings, declarations of private persons; they are organic utterances; they speak the voice of the entire group. These authorities were collected to support the historical conclusion that: 'no purpose of action against religion can be imputed any legislation, state or nation, because this is a religious people. This is historically true. From the discovery of this continent to the present hour, there is a single voice making this affirmation . . . we find everywhere a clear recognition of the same truth . . . this is a Christian nation' "; and

WHEREAS, on May 7, 1911, President Woodrow Wilson, addressing the Tercentenary Celebration of the Translation of the Bible into the English Language, stated:

> "Up to the time of the translation of the Bible into English, it was a book for long ages withheld from the perusal of the peoples of other languages and other tongues, and not a little of the history of liberty lies in the circumstance that the moving sentences of this book were made familiar to the ears and understanding of those peoples who have led mankind in exhibiting the forms of government and the impulses of reform which have made for freedom and for self-government among mankind.
>
> "For this is a book which reveals men unto themselves, not as creatures in bondage, but as men under human authority, not as those bidden to take counsel and command of any human source. It reveals every man to himself as a distinct moral agent, responsible not to men, not even to those men whom he has put over him in authority, but responsible through his own conscience to his Lord and Maker. Whenever a man sees this vision he stands up a free man, whatever may be the government under which he lives, if he sees beyond the circumstances of his own life . . . Moreover, the Bible does what is so invaluable in human life -- it classifies moral values. It apprises us that men are not judged according to their wits, but according to their characters -- that the last of every man's reputation is his truthfulness, his squaring his conduct with the standards that he knew to be the standards of purity and rectitude.
>
> "How many a man we appraise, ladies and gentlemen, as great today whom we do not admire as noble! A man may have great power and small character"; and

WHEREAS, President Woodrow Wilson's letter to the soldiers and sailors of the United States during World War I, recorded in the Congressional Record, advised them:

> "The Bible is the word of life. I beg that you will read it and find this out for yourselves -- read not little snatches here and there, but long passages that will really be the road to the heart of it. You will find it full of real men and

women not only, but also of things you have wondered about and been troubled about all your life, as men have been always; and the more you read, the more it will become plain to you what things are worthwhile and what are not, what things make men happy -- loyalty, right dealings, speaking the truth, readiness to give everything for what they think their duty, and, most of all, the wish that they may have the real approval of the Christ, who gave everything for them -- and the things that are guaranteed to make men unhappy -- selfishness, cowardice, greed, and everything that is low and mean. When you have read the Bible, you will know that it is the Word of God, because you will have found it the key to your own heart, your own happiness, and your own duty"; and

WHEREAS, before his assassination on November 22, 1963, President John F. Kennedy prepared a major address on the status of American strength and security, choosing his last words from the Bible to reveal the source of America's true security: "Except the Lord keep the city, the watchman waketh but in vain"; and

WHEREAS, in his book, "Sources of Power," President Jimmy Carter acknowledged the importance of the Mosaic law as a foundation:

> "As we face changes and challenges, we need to hold on to the things that don't change, the foundations on which we can build our lives despite the uncertainty and danger of the future. God's law is the greatest of these foundations"; and

WHEREAS, the Ten Commandments appear over the bench where the United States Supreme Court Justices sit, thus showing the source from whence our laws and the governmental power of the state are derived; and

WHEREAS, in his November, 1976 interview with Robert Scheer, President Jimmy Carter stated:

> "I think the laws are on the books quite often because of their relationship to the Bible. Early in the nation's development, the Judeo-Christian moral standards were accepted as a basis for civil law"; and

WHEREAS, in his February 22, 1990 proclamation designating 1990 as The International Year of Bible Reading, President George Bush declared:

> "The Bible has had a critical impact upon the development of Western civilization. Western literature, art, and music are filled with images and ideas that can be traced to its pages. More important, our moral tradition has been shaped by the laws and teachings it contains. It was a biblical view of man -- one affirming the dignity and worth of the human person, made in the image of our Creator -- that inspired the principles upon which the United States is founded. President Jackson called the Bible "the rock on which our Republic rests" because he knew that it shaped the Founding Fathers' concept of individual liberty and their vision of a free and just society. The Bible has not only influenced the development of our Nation's values and institutions, but also enriched the daily lives of millions of men and women who have looked to it for comfort, hope, and guidance. On the American frontier, the Bible was often the only book a family owned. For those pioneers living far from any church or school, it served both as a source of religious instruction and as the primary text from which children learned to read. The historic speeches of Abraham Lincoln and Dr. Martin Luther King, Jr., provide compelling evidence of the role Scripture played in shaping the struggle against slavery and discrimination. Today the Bible continues to give courage and direction to those who seek truth and righteousness. In recognizing its enduring value, we recall the words of the prophet Isaiah, who declared, 'The grass withereth, the flower fadeth; but the word of our God shall stand forever.' Containing revelations of God's intervention in human history, the Bible offers moving testimony to His love for mankind. Treasuring the Bible as a source of knowledge and inspiration, President Abraham Lincoln called this Great Book 'the best gift God has given to man.' President Lincoln believed that the Bible not only reveals the infinite goodness of our Creator, but also reminds us of our worth as individuals and our responsibilities toward one another";

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Kentucky Department of Education, with assistance as necessary by the Legislative Research Commission, shall electronically transmit KRS 158.195 and this resolution to all public school teachers in the Commonwealth setting forth the legal guidelines established by the General Assembly in this resolution governing elected officials and public school teachers electing to post historic displays which include a depiction of the Ten Commandments.

Section 2. Documents depicting the Ten Commandments may be posted in classrooms by any public school teacher and on other public property, when incorporated into an historical display along with other historic documents as described in KRS 158.195 which may also trace the influence of the Bible on America's Founding Fathers, Presidents, laws, and institutions of government. Each historic document displayed inside a public building or school shall be displayed in a sixteen (16) inch by twenty (20) inch frame, except that the frame containing this resolution and KRS 158.195 may be larger. The purpose of the display shall not be to advance religion, but to advance the important secular purpose of illustrating how the Bible and the Ten Commandments have influenced the faith, morals, and character of American leaders who, in turn, have shaped American law, public policy, and institutions. For that reason, the General Assembly expresses no preference as to which version of the Ten Commandments is displayed or whether the display is in English, Hebrew, or a foreign language being taught in the classroom. To advance the secular purpose of making citizens of the Commonwealth more knowledgeable concerning the founding of

America, the intent of the nation's Founders, and the formative influence of the Bible and the Ten Commandments on American leaders, institutions, and law, a copy of this resolution shall be made a prominent part of any historic display on public property which includes any depiction of the Ten Commandments.

Section 3. The General Assembly directs the Kentucky Department of Education, in consultation with the Legislative Research Commission through its director, to institute a "Read to Lead" program, the goals of which shall be to familiarize students with writings and speeches of America's Founders, Framers, and Presidents which show how important the Bible, the Ten Commandments, religious faith, and strong moral character were to those American leaders. The Kentucky Department of Education shall make these historic documents and materials easily accessible to public school teachers on its web site.

Section 4. No fiscal court, city council, school board, or site-based council shall post any historical display set forth in KRS 158.195 which incorporates a depiction of the Ten Commandments until that governing body first sets forth by resolution or policy its secular purpose for erecting the display. This purpose shall not advance religion.

Section 5. Each historic display which incorporates a depiction of the Ten Commandments shall be accompanied by clearly legible copies of this resolution and of KRS 158.195; and the cost of posting and maintaining the displays shall be paid for by voluntary private contributions.

Section 6. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Department for Local Government for distribution by the department, in the manner it deems most efficient, to all elected officials of each city and county of the Commonwealth.

Section 7. The Legislative Research Commission shall remit a sufficient number of copies of this resolution to the Secretary of State for distribution by the Secretary of State, in the manner he deems most efficient, to the statewide elected officials of the Commonwealth.

Section 8. The eighty-six (86) inch by forty-two (42) inch monument, with its base, which is inscribed with the Ten Commandments and which was displayed on the Capitol grounds for decades shall be relocated to a site on the Capitol grounds near Kentucky's floral clock and shall be made a part of an historic display which shall include the display of this Resolution.

Floor Amendment No. 20 to the Committee Substitute to **HB 611**, by Representative Wilkey:

On page 12, line 4, by deleting "***Fifty percent (50%)***" and replacing it with "***Twenty-five percent (25%)***"; and

on page 12, on line 6, after "***(b)***" by deleting the rest of the line and all of lines 7 and 8 and replacing that language with "***Twenty-five percent (25%) weight to the county's percentage of the state's agricultural cash receipts based on the most recent available data; and***"; and

on page 12, line 9, by deleting "***Twenty-five percent (25%)***" and replacing it with "***Fifty percent (50%)***" and by deleting "***economic***" and replacing it with "***agricultural***"; and

on page 12, starting on line 11, after "***1.***" by deleting the rest of the line and all of lines 12, 13, and 14, and replacing it with "***The agricultural cash receipts for each county shall be divided by the total personal income for each county.***"; and

on page 12, lines 15 and 16, by deleting "***(tobacco income as a percentage of total personal income for each county)***", and replacing it with "***(agricultural cash receipts as a percentage of total personal income for each county)***"; and

on page 12, line 18, by deleting "***economic***", and replacing it with "***agricultural***"; and

on page 12, lines 18 and 19, by deleting "***tobacco income***", and replacing it with "***agricultural cash receipts***".

Floor Amendment No. 21 to the Committee Substitute to **HB 611**, by Representative Wilkey:

On page 16, line 10, after the last "***,***", by deleting the rest of the new language through line 17, and by inserting

"***recommend in writing to the entity proposing the expenditure that a project not be approved. The reasons for not approving a project shall be stated in the correspondence, which shall be issued within sixty (60) days of receiving the recommendation from the entity.***

(8) If the entity approves a project that the subcommittee has recommended in writing not be approved, the entity shall provide a written explanation to the subcommittee why the project was approved. The written explanation shall be sent within thirty (30) days of receiving the subcommittee's notification.".

Floor Amendment No. 22 to the Committee Substitute to **HB 611**, by Representative Wilkey:

On page 2, line 9, by deleting "***Fifty percent (50%)***" and replacing it with "***Seventy-five percent (75%)***"; and

on page 2, line 11, by deleting "***Fifty percent (50%)***" and replacing it with "***Twenty-five percent (25%)***"; and

On page 2, line 24, by deleting "***Fifty percent (50%)***" and replacing it with "***Seventy-five percent (75%)***"; and

on page 2, line 26, by deleting "***Fifty percent (50%)***" and replacing it with "***Twenty-five percent (25%)***"; and

On page 7, lines 10, 11, and 12, by deleting all of the language and punctuation except "*Act*" on line 10 and "*;*" on line 12; and

on page 7, line 13, after "*(h)*" by inserting "***Providing oversight and assistance to local tobacco assistance boards and working with the Kentucky Department of Agriculture as it carries out its role of providing assistance to the local tobacco assistance boards;***"; and

on page 7, line 13, before "***Providing***" by inserting "*(i)*"; and

on page 7, line 17, by deleting "*(i)*" and replacing it with "*(j)*"; and

on page 9, lines 8, 9, and 10, by deleting "***. One-third (1/3) of the moneys in this fund shall be further allocated to a state/local tobacco assistance account. The remaining two-thirds (2/3) of this fund***", and replacing it with "***and***"; and

on page 9, line 18, by deleting "*;*", and replacing it with "***and***", and by deleting all of lines 19 and 20; and

on page 9, on line 21, by deleting all the language before "***shall***"; and

on page 9, line 23, by deleting "*(b)*"; and

on page 11, line 25, by deleting "*(b)*"; and

on page 13, by deleting all of lines 23 through 27; and

on page 14, by deleting all of lines 1 through 7; and

on page 14, line 8, by changing "*(5)*" to "*(1)*"; and

on page 14, line 12, by changing "*(6)*" to "*(2)*".

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolution under rules previously suspended:

HB 823: Representative Palumbo

HB 923: Representative Colter

HCR 82: Representative Colter

Announcements

The following meetings were announced:

Labor and Industry, March 8, 2000, 8:00 a.m.

Budget Review General Government Subcommittee, March 8, 2000, 10:00 a.m.

Education, March 8, 2000, 7:59 a.m.

Judiciary, March 7, 2000, upon adjournment, Room 125

State Government, March 8, 2000, special meeting

Agricultural and Small Business, March 10, 2000, 9:00 a.m., Room 149

Transportation, March 8, 2000, 10:00 a.m.

The following meetings were canceled:

Labor and Industry, March 7, 2000, upon adjournment

Appropriations and Revenue, March 7, 2000, upon adjournment

Seniors, Military Affairs, and Public Safety, March 7, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 8, 2000.

The motion that the House adjourn until 2:00 p.m., March 8, 2000, was adopted by voice vote.

MARCH 8, 2000

FORTY-THIRD LEGISLATIVE DAY

The House was called to order by Speaker Richards.

Prayer by Reverend Kenneth Bolin, Manchester Baptist Church, Manchester.

The Speaker led the members in the Pledge of Allegiance to the Flag.

The roll was called. All members present except Representative Cox.

Representative Ballard moved that the absent member be granted leave of absence in accordance with the rules of the House. Agreed.

Representative Ballard moved that the reading of the Journal of March 7, 2000, be dispensed with and the same approved. Agreed.

Representative Ballard moved that the Rules be suspended for the purpose of making a motion concerning co-sponsors. Agreed.

Representative Ballard moved that all properly filed co-sponsor requests be approved. Agreed.

Veto Message

Announcing veto of **HB 70**.

The veto message on **HB 70** is as follows:

I, Paul E. Patton, Governor of the Commonwealth of Kentucky, pursuant to the authority granted under Section 88 of the Kentucky State Constitution, do hereby veto **House Bill 70** as passed by the 2000 Regular Session of the Kentucky General Assembly. I exercise this authority for the following reason:

House Bill 70 seeks to amend KRS 344.130 to exempt religious organizations and their activities and facilities from the provisions of the Kentucky Civil Rights Act that prohibit discrimination by places of public accommodation. This Bill would permit these organizations to operate public accommodations, as defined by the Civil Rights Act, while refusing service based on the religion of the person seeking use of the organization's facility.

In 1966, the Kentucky General Assembly took an important step to improve human relations in the Commonwealth by enacting public accommodation laws in order to remedy past and present injustices. These laws do not require a religious organization to open its facilities to the general public but they do require that if a religious organization opens its facilities and activities to the general public, they must obey the same laws that non-religious entities are required to obey. **House Bill 70** compromises this important purpose and violates both the spirit and meaning of the Kentucky Civil Rights Act by permitting discrimination on the basis of religion, the free exercise and non-establishment of which were among the fundamental principals in the founding of our state and country.

Done this Eighth day of March, 2000 in Frankfort, Kentucky at 2:05 p.m.

Senate Message

Announcing passage of **SB 245, SB 288, SB 313, SB 326, HB 148, HB 252, HB 423, HB 424, HB 507, HB 515, HCR 12, HCR 29,** and **HCR 81**. (Time: 2:15 p.m.)

Message in regard to **HB 143**: The Senate has passed **HB 143** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 243**: The Senate has passed **HB 243** with Senate Committee Amendment and respectfully requests concurrence of this Honorable Body.

Message in regard to **HB 287**: The Senate has passed **HB 287** with Senate Committee Amendments and respectfully requests concurrence of this Honorable Body.

Reference of Bills and Resolutions

The Clerk reported that the Committee on Committees has referred the following Bills:

Judiciary: **SB 119, SB 257, SB 316**

Posting of Bills and Resolutions for Consideration

The Clerk announced that the following Bills have been posted for Committee consideration:

Health and Welfare: **HB 985, SB 227, SB 272**

Report of Committees

The Committee on Judiciary reported **HB 366,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 366, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) While the alcohol concentration in his blood or breath is ***0.08***~~[0.10]~~ or more based on the definition of alcohol concentration in KRS 189A.005;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005 if the person is under the age of twenty-one (21).

(2) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***~~[0.10]~~ based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(3) The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(4) Any person who violates the provisions of paragraphs (a), (b), (c), or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both. If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days. Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both.

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months.

(c) If the alcohol concentration is below 0.18, for a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony.

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(5) Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(6) If the person is under the age of twenty-one (21) and there was an alcohol concentration of ***0.08***[~~0.10~~] or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(7) For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(8) When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(9) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(10) Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 2. KRS 189A.105 is amended to read as follows:

(1) No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his refusal to submit to such tests shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter; and

2. That, if a test is taken and the results indicate that the person has an alcohol concentration of ***0.08***[~~0.10~~] or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days; and

3. That the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

Section 3. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***[~~0.10~~] or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the

percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 4. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***[~~0.10~~], such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08***[~~0.10~~] or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

SECTION 5. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Whenever a person has been charged with a violation of subsection (1) of Section 1 of this Act or KRS 281A.210, the charging officer shall take possession of any operator's license issued by the Commonwealth of Kentucky that is held by the person. The copy of the uniform citation form given to the person shall serve as a temporary permit that is valid for twenty-one (21) days or the first court appearance, whichever is later, after the date of the citation, except that no permit shall be issued if the charging officer determines and indicates on the face of his uniform citation that:

(a) The person is charged with a second or subsequent offense; or

(b) The person has refused the test under KRS 189A.103.

(2) The temporary permit shall inform the person that upon its expiration that:

(a) The person is prohibited by order of the court from operating a motor vehicle in the Commonwealth of Kentucky, or under any operator's license issued by the Commonwealth of Kentucky;

(b) A court appearance shall take place within twenty-one (21) days at which hearing the court will address issues of suspension or return of the person's operator's license and driving privileges; and

(c) The person shall present proof of basic motor vehicle reparation insurance coverage to the court at that appearance.

(3) The uniform citation shall be identified as a temporary permit in such a way so that a Kentucky driver traveling out of state may use the citation as a temporary Kentucky permit in other states.

(4) When no temporary permit is issued the person shall be given notice that he is prohibited by order of the court from operating a motor vehicle in the Commonwealth of Kentucky, or under any operator's license issued by the Commonwealth of Kentucky, that a court appearance will take place within twenty-one (21) days at which time the court will address issues of suspension or return of the person's operator's license and driving privileges, and that the person shall present proof of basic motor vehicle reparation insurance coverage to the court at that appearance.

(5) The officer shall submit any seized operator's license along with a copy of any notice given to the District Court clerk along with the uniform citation form.

(6) At arraignment, or as soon as such relevant information becomes available, the court shall restore the motor vehicle operator's license and driving privileges of any person who:

(a) Provides proof that the person is a basic reparation insured under KRS 304.39-020; and

(b) Is not subject to suspension, revocation, or disqualification under Section 1 of this Act or KRS 189A.060, 189A.070, 189A.200, or 281A.190.

(7) Any person whose privilege to operate a motor vehicle in the Commonwealth of Kentucky or under any operator's license issued by the Commonwealth is suspended or prohibited by the court pursuant to this chapter shall be given credit toward his suspension for the period of time prior to final disposition for which his license or operating privilege

was suspended or prohibited.

(8) The court shall report to the Administrative Office of the Courts and to the Transportation Cabinet, Division of Driver's Licensing, on or within five (5) working days following January 1, April 1, July 1, and October 1 of each year the disposition of each hearing where the court addresses issues of suspension pursuant to KRS 189A.200, or return of the person's operator's license and driving privileges and the reasons for the disposition. The court shall submit the reports on a form provided by the Administrative Office of the Courts.

Section 6. KRS 72.025 is amended to read as follows:

Coroners shall require a post-mortem examination to be performed in the following circumstances:

(1) When the death of a human being appears to be caused by homicide or violence;

(2) When the death of a human being appears to be the result of suicide;

(3) When the death of a human being appears to be the result of the presence of drugs or poisons in the body;

(4) When the death of a human being appears to be the result of a motor vehicle accident and the operator of the motor vehicle left the scene of the accident or the body was found in or near a roadway or railroad;

(5) When the death of a human being occurs while the person is in a state mental institution or mental hospital when there is no previous medical history to explain the death, or while the person is in police custody, a jail or penal institution;

(6) When the death of a human being occurs in a motor vehicle accident and ***shall include an examination to determine if alcohol is present in the body and if there is alcohol in the body, the concentration of alcohol in the body***~~[when an external examination of the body does not reveal a lethal traumatic injury]~~;

(7) When the death of a human being appears to be the result of a fire or explosion;

(8) When the death of a child appears to indicate child abuse prior to the death;

(9) When the manner of death appears to be other than natural;

(10) When human skeletonized remains are found;

(11) When post-mortem decomposition of a human corpse exists to the extent that external examination of the corpse cannot rule out injury or where the circumstances of death cannot rule out the commission of a crime;

(12) When the death of a human being appears to be the result of drowning;

(13) When the death of an infant appears to be caused by sudden infant death syndrome in that the infant has no previous medical history to explain the death;

(14) When the death of a human being occurs as a result of an accident;

(15) When the death of a human being occurs under the age of forty (40) and there is no past medical history to explain the death;

(16) When the death of a human being occurs at the work site and there is no apparent cause of death such as an injury or when industrial toxics may have contributed to the cause of death;

(17) When the body is to be cremated and there is no past medical history to explain the death;

(18) When the death of a human being is sudden and unexplained; and

(19) When the death of a human being occurs and the decedent is not receiving treatment by a licensed physician and there is no ascertainable medical history to indicate the cause of death.

Section 7. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For the purposes of this section, "alcoholic beverage" includes distilled spirits, wine, beer, and malt beverages that consist of not less than three and two-tenths percent (3.2%) alcohol by weight.

Section 8. KRS 189A.090 is amended to read as follows:

(1) No person shall operate a motor vehicle while his license is revoked or suspended for violation of KRS 189A.010, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010.

(2) Any person who violates subsection (1) of this section ***and is not convicted of a violation of Section 1 of this Act as a result of the same course of conduct,*** shall:

(a) For a first offense, be guilty of a Class B misdemeanor;

(b) For a second offense, be guilty of a Class A misdemeanor;

(c) For a third or subsequent offense, be guilty of a Class D felony.

(3) ***Any person who violates subsection (1) of this section and who is convicted, pleads guilty to, or enters an Alford plea to a violation of Section 1 of this Act resulting from the same course of conduct shall be guilty of a Class D felony.***

(4) In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation.

SECTION 9. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Upon the conviction of a second or subsequent offense of Section 1 of this Act, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of subsection (1)(a), (b), (c), or (d) of Section 1 of this Act, shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) At the final sentencing hearing, and upon application, the court may grant one (1) hardship exception to family members or other individuals affected by the surrender of any license plate or plates owned by the second or subsequent offender. A hardship exception may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize one (1) of the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of a hardship exception, the clerk shall return to the family members or other affected individuals the license plate or plates of the vehicle of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to utilize a vehicle for which the license plate has been suspended under any circumstances unless he or she receives permission from the court to utilize the vehicle or vehicles.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be sold to a joint owner of the vehicle who was not the violator. In this case, the license plate shall be returned to the new owner of the vehicle and the suspension and inoperability of the license plate removed.

(4) If the license plate of a jointly owned motor vehicle is impounded, the vehicle may be sold to a bona fide third party purchaser who is not acting on behalf of the violator. In this case, the license plate shall be returned to the new owner of the vehicle and the suspension and inoperability of the license plate removed.

Section 10. This Act shall become effective October 1, 2000.

The Committee Substitute No. 1 to **HB 366** is as follows:

HB 366, AN ACT relating to crimes and punishments.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189A.005 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Alcohol concentration" means either grams of alcohol per 100 milliliters of blood or grams of alcohol per 210 liters of breath;

(2) "Refusal" means declining to submit to any test or tests pursuant to KRS 189A.103. Declining may be either by word or by the act of refusal. If the breath testing instrument for any reason shows an insufficient breath sample and the alcohol concentration cannot be measured by the breath testing instrument, the law enforcement officer shall then request the defendant to take a blood or urine test in lieu of the breath test. If the defendant then declines either by word or by the act of refusal, he shall then be deemed to have refused ***if the refusal occurs at the site at which any alcohol concentration or substance test is to be administered***;~~[and]~~

(3) When age is a factor, it shall mean age at the time of the commission of the offense***;***

(4) Unless otherwise provided, license suspensions under this chapter shall be imposed by the court. The court shall impose the applicable period of license suspension enumerated by this chapter and shall include in its order or judgment the length and terms of any suspension imposed. The license suspension shall be deemed effective on the date of entry of the court's order or judgment. The role of the Transportation Cabinet shall be limited to administering the

suspension period under the terms and for the duration enumerated by the court in its order or judgment;

(5) "Limited access highway" has the same meaning as it does in KRS 177.220;

(6) "License" means any driver's or operator's license or any other license or permit to operate a motor vehicle issued under or granted by the laws of this state including:

(a) Any temporary license or instruction permit;

(b) The privilege of any person to obtain a valid license or instruction permit, or to drive a motor vehicle whether or not the person holds a valid license; and

(c) Any nonresident's operating privilege as defined in KRS Chapters 186 or 189.

Section 2. KRS 189A.010 is amended to read as follows:

(1) A person shall not operate or be in physical control of a motor vehicle anywhere in this state:

(a) ***After having consumed a quantity of alcohol sufficient to establish an alcohol concentration of 0.08 or more as measured by a test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle***~~[While the alcohol concentration in his blood or breath is 0.10 or more based on the definition of alcohol concentration in KRS 189A.005]~~;

(b) While under the influence of alcohol;

(c) While under the influence of any other substance or combination of substances which impairs one's driving ability;

(d) While under the combined influence of alcohol and any other substance which impairs one's driving ability; or

(e) ***After having consumed a quantity of alcohol sufficient to establish an alcohol concentration of 0.02 or more as measured by a test or tests of a sample of the person's breath or blood taken within two (2) hours of cessation of operation or physical control of a motor vehicle,***~~[While the alcohol concentration in his blood or breath is 0.02 or more based on the definition of alcohol concentration in KRS 189A.005]~~ if the person is under the age of twenty-one (21).

(2) ***If the sample of the person's blood or breath that is used to determine the alcohol concentration thereof was obtained more than two (2) hours after cessation of operation or physical control of a motor vehicle, the results of the test or tests shall be inadmissible as evidence in a prosecution under paragraphs (1)(a) and (1)(e) of this section. The results of the test or tests, however, may be admissible in a prosecution under paragraphs (1)(b) and (1)(d).***

(3) In any prosecution for a violation of subsection (1)(b) or (d) of this section in which the defendant is charged with having operated or been in physical control of a motor vehicle while under the influence of alcohol, the alcohol concentration in the defendant's blood as determined at the time of making analysis of his blood or breath shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05 based upon the definition of alcohol concentration in KRS 189A.005, it shall be presumed that the defendant was not under the influence of alcohol; and

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***~~[0.10]~~ based upon the definition of alcohol concentration in KRS 189A.005, that fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but that fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant.

The provisions of this subsection shall not be construed as limiting the introduction of any other competent evidence bearing upon the questions of whether the defendant was under the influence of alcohol or other substances, in any prosecution for a violation of subsection (1)(b) or (d) of this section.

(4)~~[(3)]~~The fact that any person charged with violation of subsection (1) of this section is legally entitled to use any substance, including alcohol, shall not constitute a defense against any charge of violation of subsection (1) of this section.

(5)~~[(4)]~~Any person who violates the provisions of paragraphs (a), (b), (c)***,*** or (d) of subsection (1) of this section shall:

(a) For the first offense within a five (5) year period, be fined not less than two hundred dollars ($200) nor more than five hundred dollars ($500) or be imprisoned in the county jail for not less than forty-eight (48) hours nor more than thirty (30) days or both.~~[If the person has a blood or breath alcohol concentration of 0.18 or higher, he or she shall be sentenced to at least seven (7) days' imprisonment, but the court may probate five (5) of those days.]~~ Following sentencing, the defendant may apply to the judge for permission to enter a community labor program for not less than forty-eight (48) hours nor more than thirty (30) days in lieu of fine or imprisonment, or both. ***If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be four (4) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.***

(b) For the second offense within a five (5) year period, be fined not less than three hundred fifty dollars ($350) nor more than five hundred dollars ($500) and shall be imprisoned in the county jail for not less than seven (7) days nor more than six (6) months and, in addition to fine and imprisonment, may be sentenced to community labor for not less than ten (10) days nor more than six (6) months. *If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be fourteen (14) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.*

(c) ~~[If the alcohol concentration is below 0.18,]~~For a third offense within a five (5) year period, be fined not less than five hundred dollars ($500) nor more than one thousand ($1,000) and shall be imprisoned in the county jail for not less than thirty (30) days nor more than twelve (12) months and may, in addition to fine and imprisonment, be sentenced to community labor for not less than ten (10) days nor more than twelve (12) months. *If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be sixty (60) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release*~~[. If the alcohol concentration is 0.18 or above, he or she shall be guilty of a Class D felony]~~.

(d) For a fourth or subsequent offense within a five (5) year period, be guilty of a Class D felony. *If any of the aggravating circumstances listed in subsection (11) of this section are present while the person was operating or in physical control of a motor vehicle, the mandatory minimum term of imprisonment shall be two hundred forty (240) days, which term shall not be suspended, probated, conditionally discharged, or subject to any other form of release.*

(e) For purposes of this subsection, prior offenses shall include all convictions in this state, and any other state, or jurisdiction for operating or being in control of a motor vehicle while under the influence of alcohol or other substances that impair one's driving ability, or any combination of alcohol and such substances, or while having an unlawful alcohol concentration, or driving while intoxicated, but shall not include convictions for violating subsection (1)(e) of this section. A court shall receive as proof of a prior conviction a copy of that conviction, certified by the court ordering the conviction.

(6)~~[(5)]~~Any person who violates the provisions of subsection (1)(e) of this section shall have his driving privilege or operator's license suspended by the court for a period of no less than thirty (30) days but no longer than six (6) months, and the person shall be fined no less than one hundred dollars ($100) and no more than five hundred dollars ($500), or sentenced to twenty (20) hours of community service in lieu of a fine. A person subject to the penalties of this paragraph shall not be subject to the penalties established in subsection (4) of this section or any other penalty established pursuant to KRS Chapter 189A.

(7)~~[(6)]~~If the person is under the age of twenty-one (21) and there was an alcohol concentration of *0.08*~~[0.10]~~ or greater based on the definition of alcohol concentration in KRS 189A.005, the person shall be subject to the penalties established pursuant to subsection (4) of this section.

(8)~~[(7)]~~For a second or third offense within a five (5) year period, the minimum sentence of imprisonment or community labor shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a fourth or subsequent offense under this section, the minimum term of imprisonment shall be one hundred twenty (120) days, and this term shall not be suspended, probated, or subject to conditional discharge or other form of early release. For a second or subsequent offense, at least forty-eight (48) hours of the mandatory sentence shall be served consecutively.

(9)~~[(8)]~~When sentencing persons under subsection (4)(a) of this section at least one (1) of the penalties shall be assessed and that penalty shall not be suspended, probated, or subject to conditional discharge or other form of early release.

(10)~~[(9)]~~ In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(11) For purposes of this section, aggravating circumstances are any one (1) or more of the following:

(a) Operating a motor vehicle in excess of thirty (30) miles per hour above the speed limit;

(b) Operating a motor vehicle in the wrong direction on a limited access highway;

(c) Operating a motor vehicle that causes an accident resulting in death or serious physical injury as defined in KRS 500.080;

(d) Operating a motor vehicle while the alcohol concentration in the operator's blood or breath is 0.18 or more as measured by a test or tests of a sample of the operator's blood or breath taken within two (2) hours of cessation of operation of the motor vehicle;

(e) Refusing to submit to any test or tests of one's blood, breath, or urine requested by an officer having reasonable grounds to believe the person was operating or in physical control of a motor vehicle in violation of subsection (1) of this section, provided that the refusal is established by video or audio recording or a written statement signed by the person refusing to submit; and

(f) Operating a motor vehicle that is transporting a passenger under the age of twelve (12) years old.

(12)~~[(10)]~~ Any person who violates the provisions of subsection (1) of this section shall be assessed twenty dollars ($20) in addition to the fines imposed by subsections (4) and (5) of this section. Funds collected pursuant to this subsection shall

be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

Section 3. KRS 189A.040 is amended to read as follows:

(1) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](a) ***or (6)*** of KRS 189A.010, the court shall sentence the person to attend an alcohol or substance abuse education or treatment program subject to the following terms and conditions for a first offender:

(a) The treatment or education shall be ***completed within***[~~for~~] a period of ninety (90) days and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. ***The alcohol or substance abuse education program, or combination thereof, shall not exceed nine (9) hours in length and no court or state agency shall have the authority to extend the length of the program by administrative regulation or otherwise.***

(b) Each defendant shall pay the cost of the education or treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant ***shall***[~~may~~] be released prior to the expiration of the ninety (90) day period.

(d) Failure to complete the education or treatment program or to pay the amount specified by the court for education or treatment shall constitute contempt, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the education or treatment program.

(2) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](b) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a second offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the treatment.

(c) Upon written report to the court by the administrator of the program that the defendant has completed the program recommended by the administrator based upon the assessment of the defendant, the defendant may be released prior to the expiration of the one (1) year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending the completion of the treatment program.

(3) In addition to any other penalty prescribed by subsection ***(5)***[~~(4)~~](c) or (d) of KRS 189A.010, the court shall sentence the person to an alcohol or substance abuse treatment program subject to the following terms and conditions for a third or subsequent offender:

(a) The sentence shall be for a period of one (1) year and the program shall provide an assessment of the defendant's alcohol or other substance abuse problems, which shall be performed at the start of the program. The program may be an inpatient or residential-type program.

(b) Each defendant shall pay the cost of the treatment program up to his ability to pay but no more than the actual cost of the program.

(c) A defendant, upon written recommendation to the court by the administrator of the program, may be released from the inpatient or residential program prior to the expiration of one (1) year but shall be retained in the program on an outpatient basis for the remainder of the year period.

(d) Failure to complete the treatment program or to pay the amount specified by the court for treatment shall constitute contempt of court, and the court shall, in addition to any other remedy for contempt, reinstitute all penalties which were previously imposed but suspended or delayed pending completion of the treatment program.

(4) Costs of treatment or education programs which are paid from the service fee established by KRS 189A.050, or from state or federal funds, or any combination thereof, shall be deducted from the amount which the defendant must pay.

(5) For the purposes of this section, "treatment" means service in an alcohol or substance abuse education or treatment program or facility licensed, regulated, and monitored by the Cabinet for Health Services for services as required under this section.

(6) The Cabinet for Health Services shall promulgate administrative regulations for the licensure of education and treatment facilities and programs for offenders receiving education or treatment under this section. The criteria developed by the Cabinet for Health Services shall include:

(a) Manner of assessment;

(b) Appropriate education and treatment plans; and

(c) Referrals to other treatment providers.

(7) The participating facilities and programs shall be required to abide by these standards and shall report completion to the Transportation Cabinet. Upon request, the facility or program shall report to the courts regarding the progress of offenders being treated pursuant to this section.

(8) Administrative decisions regarding the licensure of education and treatment facilities and programs may be appealed, and upon appeal an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 4. KRS 189A.050 is amended to read as follows:

(1) All persons convicted of violation of KRS 189A.010 shall be sentenced to pay a service fee of two hundred ***fifty*** dollars ***($250)***~~[($200)]~~, which shall be in addition to all other penalties authorized by law.

(2) The fee shall be imposed in all cases but shall be subject to the provisions of KRS 534.020 relating to the method of imposition and KRS 534.060 as to remedies for nonpayment of the fee.

(3) The ***revenue collected from the*** service fee ***imposed by this section*** shall be utilized~~[to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment and education programs authorized by this chapter, and the Department of Public Advocacy.]~~ ***as follows:***

(a) Fifteen percent (15%) of the amount collected shall be transferred to the Kentucky State Police forensic laboratory for the acquisition, maintenance, testing, and calibration of alcohol concentration testing instruments and the training of laboratory personnel to perform these tasks;

(b)~~[(4)]~~Twenty-five percent (25%) of the service fee collected pursuant to this section shall be allocated to the Department of Public Advocacy***;***~~[. These funds shall be placed in a special trust and agency account for the Department of Public Advocacy, and the funds]~~

(c) One percent (1%) shall be transferred to the Office of the Attorney General for training of prosecutors for the prosecution of persons charged with violations of this chapter and for obtaining expert witnesses in cases involving the prosecution of persons charged with violations of this chapter or any other offense in which driving under the influence is a factor in the commission of the offense charged;

(d) Any amount specified by a specific statute shall be transferred as provided in that statute; and

(e) The remainder of the service fee shall be utilized to fund enforcement of this chapter and for the support of jails, recordkeeping, treatment, and educational programs authorized by this chapter and by the Department of Public Advocacy.

(4) The amounts specified in paragraphs (a), (b), and (c) of subsection (3) of this section shall be placed in trust and agency accounts that shall not lapse.

Section 5. KRS 189A.070 is amended to read as follows:

(1) Unless the person is under eighteen (18) years of age, in addition to the penalties specified in KRS 189A.010, a person convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license to operate a motor vehicle or motorcycle revoked by the court as follows:

(a) For the first offense within a five (5) year period, ***for a period of not less than thirty (30) days nor more than one hundred twenty (120)***~~[ninety]~~ days;

(b) For the second offense within a five (5) year period, ***for a period of not less than*** twelve (12) months ***nor more than eighteen (18) months***;

(c) For a third offense within a five (5) year period, ***for a period of not less than*** twenty-four (24) months ***nor more than thirty-six (36) months***; and

(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months.

(e) For purposes of this section, "offense" shall have the same meaning as described in KRS 189A.010***(5)***~~[(4)]~~(e).

(2) In determining the five (5) year period under this section, the period shall be measured from the dates on which the offenses occurred for which the judgments of conviction were entered.

(3) In addition to the period of license revocation set forth in subsection (1) of this section, no person shall be eligible for reinstatement of his privilege to operate a motor vehicle until he has completed the alcohol or substance abuse education or treatment program ordered pursuant to KRS 189A.040***. However, if the person has enrolled in the program within the time required by law, and the administrator of the program certifies in writing to the Transportation Cabinet that the person will be unable to complete the program within the license suspension period, the cabinet shall restore the person's license or driving privileges at the conclusion of the suspension period for a period of time sufficient for the person to complete the program, not to exceed one hundred twenty (120) days. If, following the restoration period, the person has not yet completed the program, the license or driving privileges shall be revoked until completion of the program***.

(4) A person under the age of eighteen (18) who is convicted of violation of KRS 189A.010(1)(a), (b), (c), or (d) shall have his license revoked by the court until he reaches the age of eighteen (18) or shall have his license revoked as provided in subsection (1) of this section, whichever penalty will result in the longer period of revocation.

(5) Licenses revoked pursuant to this chapter shall forthwith be surrendered to the court upon conviction. The court shall transmit the conviction records, and other appropriate information to the Transportation Cabinet. A court shall not waive or stay this procedure.

(6) Should a person convicted under this chapter whose license is revoked fail to surrender it to the court upon conviction, the court shall issue an order directing the sheriff or any other peace officer to seize the license forthwith and deliver it to the court.

Section 6. KRS 189A.080 is amended to read as follows:

[~~(1)~~]All licenses suspended or revoked pursuant to ***subsection (6) of Section 2 of this Act,*** KRS 189A.060 or 189A.070[~~(1)~~]***, or Sections 10, 13, or 14 of this Act*** shall be surrendered to the court ***and forwarded to the Transportation Cabinet***.[~~ Other revocations pursuant to this chapter shall be administered by the Transportation Cabinet.~~

~~(2) The court shall retain control of the license until such time as the suspension or revocation imposed pursuant to KRS 189A.060 or 189A.070(1) is lifted and the court shall provide notification of the suspension and actions taken within five (5) days to the Transportation Cabinet.~~

~~(3) At the end of the period of license suspension or revocation, imposed pursuant to KRS 189A.060 or 189A.070(1), the person whose license was suspended or revoked may apply to the circuit clerk for reinstatement of the license. If all requirements of KRS Chapter 186 have been met and the license has not been suspended or revoked by the Transportation Cabinet for other reasons, the license shall be returned.~~]

Section 7. KRS 189A.090 is amended to read as follows:

(1) No person shall operate ***or be in physical control of*** a motor vehicle while his license is revoked or suspended ***under Section 5 of this Act, subsection (6) of Section 2 of this Act, or Sections 10, 13, or 14 of this Act***[~~for violation of KRS 189A.010, nor shall any person who has no motor vehicle or motorcycle operator's license operate a motor vehicle while his privilege to operate a motor vehicle has been revoked or suspended for a violation of KRS 189A.010~~].

(2) ***In addition to any other penalty imposed by the court,*** any person who violates subsection (1) of this section shall:

(a) For a first offense ***within a five (5) year period***, be guilty of a Class B misdemeanor ***and have his license revoked by the court for six (6) months, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class A misdemeanor and have his license revoked by the court for a period of one (1) year***;

(b) For a second offense ***within a five (5) year period***, be guilty of a Class A misdemeanor ***and have his license revoked by the court for one (1) year, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of two (2) years***;

(c) For a third or subsequent offense ***within a five (5) year period***, be guilty of a Class D felony ***and have his license revoked by the court for two (2) years, unless at the time of the offense the person was also operating or in physical control of a motor vehicle in violation of paragraphs (a), (b), (c), or (d) of subsection (1) of Section 2 of this Act, in which event he shall be guilty of a Class D felony and have his license revoked by the court for a period of five (5) years***.

(3) ***The five (5) year period under this section shall be measured in the same manner as in Section 5 of this Act***[~~In addition to the penalties above his operator's license shall be revoked for twice the original period of revocation~~].

Section 8. KRS 189A.103 is amended to read as follows:

The following provisions shall apply to any person who operates or is in physical control of a motor vehicle or a vehicle that is not a motor vehicle in this Commonwealth:

(1) He ***has***[~~is deemed to have~~] given his consent to one (1) or more tests of his blood, breath, and urine, or combination thereof, for the purpose of determining alcohol concentration or presence of a substance which may impair one's driving ability, if ***an officer has reasonable grounds to believe that***[~~arrested for any offense arising out of~~] a violation of KRS 189A.010(1) or 189.520(1) ***has occurred***.

(2) Any person who is dead, unconscious, or otherwise in a condition rendering him incapable of refusal is deemed not to have withdrawn the consent provided in subsection (1) of this section, and the test may be given.

(3) The breath, blood, and urine tests administered pursuant to this section shall be administered at the direction of a peace officer having reasonable grounds to believe the person has committed a violation of KRS 189A.010(1) or 189.520(1).

(a) Tests of the person's breath, blood, or urine, to be valid pursuant to this section, shall have been performed according to the administrative regulations promulgated by the secretary of the Justice Cabinet.

(b) All breath tests shall be administered by a peace officer holding a certificate, as an operator of a breath analysis instrument, issued by the secretary of the Justice Cabinet or his designee.

(4) A breath test shall consist of a test which is performed in accordance with the manufacturer's instructions for the use of the instrument. ***The secretary of the Justice Cabinet shall keep available for public inspection copies of these manufacturer's instructions for all models of breath testing devices in use by the Commonwealth of Kentucky.***

(5) When the preliminary breath test, breath test, or other evidence gives the peace officer reasonable grounds to believe there is impairment by a substance which is not subject to testing by a breath test, then blood or urine tests, or both, may be required in addition to a breath test, or in lieu of a breath test.

(6) Only a physician, registered nurse, phlebotomist, medical technician, or medical technologist not otherwise prohibited by law can withdraw any blood of any person submitting to a test under this section.

(7) ***After the person has submitted to all alcohol concentration tests and substance tests requested by the officer*** the person tested shall be permitted to have a person listed in subsection (6) of this section of his own choosing administer a test or tests in addition to any tests administered at the direction of the peace officer. Tests conducted under this section shall be conducted within a reasonable length of time. Provided, however, the nonavailability of the person chosen to administer a test or tests in addition to those administered at the direction of the peace officer within a reasonable time shall not be grounds for rendering inadmissible as evidence the results of the test or tests administered at the direction of the peace officer.

Section 9. KRS 189A.105 is amended to read as follows:

(1) ***A person's***~~[No person shall be compelled to submit to any test or tests specified in KRS 189A.103, but his]~~ refusal to submit to~~[such]~~ tests ***under Section 8 of this Act*** shall result in revocation of his driving privilege as provided in this chapter.

(2) (a) At the time a breath, blood, or urine test is requested, the person shall be informed:

1. That, if the person refuses to submit to such tests, the ***fact of this refusal may be used against him in court as evidence of violating Section 2 of this Act and will result in revocation of his driver's license, and if the person refuses to submit to the tests and is subsequently convicted of violating subsection (1) of Section 2 of this Act then he will be subject to a mandatory minimum jail sentence which is twice as long as the mandatory minimum jail sentence imposed if he submits to the tests, and that if the person refuses to submit to the tests he will be unable to obtain a hardship license***~~[person's privilege to drive shall be revoked for a period of six (6) months, or more, pursuant to this chapter]~~; and

2. That, if a test is taken***, the results of the test may be used against him in court as evidence of violating subsection (1) of Section 2 of this Act, and that if the results of the test are 0.18 or above and the person is subsequently convicted of violating subsection (1) of Section 2 of this Act, then he will be subject to a sentence that is twice as long as the mandatory minimum jail sentence imposed if the results are less than 0.18***~~[and the results indicate that the person has an alcohol concentration of 0.10 or greater, or, if the person is under the influence of alcohol or a substance that impairs one's driving ability or a combination of alcohol and such substance, the person shall be subject to criminal penalties and the person's driving license shall be revoked for a period of at least ninety (90) days]~~; and

3. That ***if the person first submits to the requested alcohol and substance tests,*** the person has the right to have a test or tests of his blood performed by a person of his choosing described in KRS 189A.103 within a reasonable time of his arrest at the expense of the person arrested.

(b) Nothing in this subsection shall be construed to prohibit a judge of a court of competent jurisdiction from issuing a search warrant or other court order requiring a blood or urine test, or a combination thereof, of a defendant charged with a violation of KRS 189A.010, or other statutory violation arising from the incident, when a person is killed or suffers physical injury, as defined in KRS 500.080, as a result of the incident in which the defendant has been charged.

(3) During the period immediately preceding the administration of any test, the person shall be afforded an opportunity of at least ten (10) minutes but not more than fifteen (15) minutes to attempt to contact and communicate with an attorney, and shall be informed of this right. Inability to communicate with an attorney during this period shall not be deemed to relieve the person of his obligation to submit to the tests and the penalties specified by Section 10 of this Act shall remain applicable to the person upon refusal. Nothing in this section shall be deemed to create a right to have an attorney present during the administration of the tests, but the person's attorney may be present if the attorney can physically appear at the location where the test is to be administered within the time period established in this section.

(4) Immediately following the administration of the final test requested by the officer, the person shall again be informed of his right to have a test or tests of his blood performed by a person of his choosing described in Section 8 of this Act within a reasonable time of his arrest at the expense of the person arrested. He shall then be asked "Do you want such a test?" The officer shall make reasonable efforts to provide transportation to the tests.

Section 10. KRS 189A.107 is amended to read as follows:

(1) ***A person who refuses to submit to an alcohol concentration or substance test requested by an officer having reasonable grounds to believe that the person violated subsection (1) of Section 2 of this Act or subsection (1) of Section 12 of this Act shall have his driver's license suspended by the court during the pendency of the action under Section 13 of this Act***~~[Except as provided in KRS 189A.220(2), suspensions for refusal to take an alcohol concentration or substance test shall be as follows:~~

~~(a) For a first refusal in a five (5) year period, six (6) months;~~

~~(b) For a second refusal within a five (5) year period, eighteen (18) months;~~

~~(c) For a third refusal within a five (5) year period, thirty six (36) months; and~~

~~(d) For a fourth or subsequent offense within a five (5) year period, sixty (60) months]~~.

(2) In the event a defendant is not convicted of a violation of KRS 189A.010(1) ***or subsection (1) of Section 12 of this Act*** in a case in which ***it is alleged that*** he refused to take an alcohol concentration or substance test, ***upon motion of the attorney for the Commonwealth, the court shall conduct a hearing, without a jury, to determine by a preponderance of the evidence if the person actually refused the testing. However, the hearing shall not be required if the court has made a previous determination of the issue at a hearing held under Sections 13 and 14 of this Act. If the court finds that the person did refuse to submit to the testing, the court shall suspend the person's driver's license for a period of time not longer than the period the license would have been suspended upon conviction as set forth in subsection (1) of Section 5 of this Act***~~[the court's final judgment shall impose the penalty required by this section. Except as provided in KRS 189A.220(2), in the event a defendant is convicted of a violation of KRS 189A.010(1), the final judgment shall impose the license revocation penalty required by this section or the license penalty revocation required for the conviction, whichever is longer]~~.

Section 11. KRS 189A.120 is amended to read as follows:

(1) When an alcohol concentration for a person twenty-one (21) years of age or older in a prosecution for violation of KRS 189A.010 is ***0.08***~~[0.10]~~ or above, is 0.02 or above for a person under the age of twenty-one (21), or when the defendant, regardless of age, has refused to take an alcohol concentration or substance test, a prosecuting attorney shall not agree to the amendment of the charge to a lesser offense and shall oppose the amendment of the charge at trial, unless all prosecution witnesses are, and it is expected they will continue to be, unavailable for trial.

(2) A prosecuting attorney shall not amend a blood alcohol concentration, and he shall oppose the amendment of the percentage, unless uncontroverted scientific evidence is presented that the test results were in error. In the cases the prosecutor shall state his reasons for agreeing with the amendment, and the scientific data upon which the amendment was made shall be made a part of the record in this case.

(3) The record of charges and disposition thereof, including reasons for amending the charges, shall be transmitted by the court to the Justice Cabinet for inclusion in the centralized criminal history record information system under KRS 17.150.

Section 12. KRS 189.520 is amended to read as follows:

(1) No person under the influence of intoxicating beverages or any substance which may impair one's driving ability shall operate a vehicle that is not a motor vehicle anywhere in this state.

(2) No peace officer or State Police officer shall fail to enforce rigidly this section.

(3) In any criminal prosecution for a violation of subsection (1) of this section, wherein the defendant is charged with having operated a vehicle which is not a motor vehicle while under the influence of intoxicating beverages, the alcohol concentration, as defined in KRS 189A.005, in the defendant's blood as determined at the time of making an analysis of his blood, urine, or breath, shall give rise to the following presumptions:

(a) If there was an alcohol concentration of less than 0.05, it shall be presumed that the defendant was not under the influence of alcohol;

(b) If there was an alcohol concentration of 0.05 or greater but less than ***0.08***~~[0.10]~~, such fact shall not constitute a presumption that the defendant either was or was not under the influence of alcohol, but such fact may be considered, together with other competent evidence, in determining the guilt or innocence of the defendant;

(c) If there was an alcohol concentration of ***0.08***~~[0.10]~~ or more, it shall be presumed that the defendant was under the influence of alcohol.

(4) The provisions of subsection (3) of this section shall not be construed as limiting the introduction of any other competent evidence bearing upon the question of whether the defendant was under the influence of intoxicating beverages.

Section 13. KRS 189A.200 is amended to read as follows:

(1) ~~[In addition to the pretrial suspension of a motor vehicle operator's license authorized by KRS 189A.060,]~~The court shall at the arraignment or as soon as such relevant information becomes available suspend the motor vehicle operator's license and motorcycle operator's license and driving privileges of any person charged with a violation of KRS 189A.010(1)~~[(a), (b), (c), or (d)]~~ who:

(a) Has refused to take an alcohol concentration or substance test as reflected on the uniform citation form;[~~ or~~]

(b) Has been convicted of one (1) or more prior offenses as described in KRS 189A.010***(5)***[~~(4)~~](e) or has had his operator's license revoked or suspended on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest***; or***

(c) Was involved in an accident that resulted in physical injury as defined in KRS 500.080 to a person other than the defendant.

(2) Persons whose licenses have been suspended pursuant to this section may file a motion for judicial review of the suspension, and the court shall conduct the review in accordance with this chapter within thirty (30) days after the filing of the motion. The court shall, at the time of the suspension, advise the defendant of his rights to the review.

(3) When the court orders the suspension of a license pursuant to this section, the defendant shall immediately surrender the license to the Circuit Court clerk, and the court shall retain the defendant in court or remand him into the custody of the sheriff until the license is produced and surrendered. If the defendant has lost his operator's license, other than due to a previous suspension or revocation, which is still in effect, the sheriff shall take him to the office of the circuit clerk so that a new license can be issued. If the license is currently under suspension or revocation, the provisions of this subsection shall not apply.

(4) The Circuit Court clerk shall ***forthwith transmit to the Transportation Cabinet***[~~retain~~] any license surrendered to him pursuant to this section[~~ until:~~

~~(a) The court enters an order directing the return of the license to the defendant;~~

~~(b) In the event of a first offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), ninety (90) days have elapsed since the surrender of the license and the case has not been concluded;~~

~~(c) In the event of a second offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twelve (12) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(d) In the event of a third offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), twenty-four (24) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(e) In the event of a fourth or subsequent offense charge not involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), sixty (60) months have elapsed since the surrender of the license and the case has not been concluded;~~

~~(f) In the event of a charge involving a refusal by the defendant to take an alcohol concentration or substance test, for a violation of KRS 189A.010(1)(a), (b), (c), or (d), the period specified by KRS 189A.107 has elapsed since the surrender of the license and the case has not been concluded;~~

~~(g) A judgment of acquittal is entered in the case unless the applicable suspension period required by KRS 189A.107 has not expired; or~~

~~(h) A judgment of conviction for a violation of KRS 189A.010(1)(a), (b), (c), or (d) is entered in the case, whereupon the clerk shall transmit the license forthwith to the Department of Transportation~~].

(5) ***Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***[~~The clerk shall promptly notify the Department of Transportation of all licenses surrendered pursuant to this section~~].

(6) Any person whose operator's license has been suspended pursuant to this section shall be given credit for all pretrial suspension time against the period of revocation imposed***. Licenses suspended under this section shall remain suspended until a judgment of conviction or acquittal is entered in the case or until the court enters an order terminating the suspension, but in no event for a period longer than the maximum license suspension period applicable to the person under Sections 5 and 10 of this Act***[~~upon conviction~~].

Section 14. KRS 189A.220 is amended to read as follows:

[~~(1)~~]In any judicial review of a pretrial suspension imposed for refusal to take an alcohol concentration or substance test, if the court determines, by the preponderance of the evidence, that:

(1)[~~(a)~~]The person was charged and arrested by a peace officer with violation of KRS 189A.010(1);

(2)[~~(b)~~]The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of KRS 189A.010(1);

(3)[~~(c)~~]The person was advised of the implied consent law pursuant to KRS 189A.103;

(4)[~~(d)~~]The peace officer requested the person to take the test or tests pursuant to KRS 189A.103; and then

(5)[~~(e)~~]The person refused to take a test requested by a peace officer pursuant to KRS 189A.103, then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle ***during the pendency of the proceedings***.

[~~(2) If there is a conviction prior to a judicial review of a pretrial suspension for refusal to take an alcohol concentration or substance test, then the period of revocation applicable to the conviction shall apply.~~]

SECTION 15. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

In any judicial review of a pretrial suspension imposed under subsection (1)(c) of Section 13 of this Act, if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with violation of Section 2 of this Act;

(2) The officer had reasonable grounds to believe that the person was operating or in physical control of a motor vehicle in violation of Section 2 of this Act;

(3) There is probable cause to believe that the person committed the violation of paragraphs (1)(a), (b), (c), or (d) of Section 2 of this Act as charged; or

(4) There is probable cause to believe that the person was involved in an accident that resulted in physical injury as defined in KRS 500.080 to a person other than the defendant;

then the court shall continue the suspension of the person's operator's license or privilege to operate a motor vehicle during the pendency of the proceedings.

Section 16. KRS 189A.310 is amended to read as follows:

(1) A court may, upon application of the defendant, ***or attorney for the Commonwealth or upon its own motion***[~~and with notice to the Transportation Cabinet, which shall be a party~~], and if the facts of the case so indicate, order that a prior conviction cannot be used to enhance ***criminal*** penalties ***including***[~~or~~] license suspensions or revocations, or for other purposes for which such a conviction might be used.

(2)[~~Determinations pursuant to this section shall be made in strict conformity to the requirements of Boykin v. Alabama, 395 U.S. 238 (1969), and the requirements of that case shall not be expanded upon unless later applicable case law so dictates.~~

~~(3) The provisions of this section shall not apply to a case in which the prior conviction has not been subject to final judgment, or is under appeal at the time the defendant makes his application pursuant to subsection (1).~~

~~(4)~~] The Transportation Cabinet shall give full faith and credit to any court decision meeting the requirements of this section.

Section 17. KRS 189A.410 is amended to read as follows:

(1) At any time following ***the expiration of the minimum license suspension periods enumerated in subsection (6) of Section 2 of this Act and Sections 5 and 10 of this Act***[~~conviction for a first offense violation of KRS 189A.010~~] the court ***may***[~~shall~~] grant the person hardship driving privileges for the ***balance of the suspension period imposed by the court***[~~final sixty (60) days of his initial ninety (90) day revocation~~], upon written petition of the defendant, if it finds reasonable cause to believe that revocation would hinder the person's ability to:

(a) Continue his employment;

(b) Continue attending school or an educational institution;

(c) Obtain necessary medical care;

(d) Attend driver improvement, alcohol, or substance abuse education programs; or

(e) Attend court-ordered counseling or other programs.

(2) The court shall not issue a hardship license to a person who has refused to take an alcohol concentration or substance test or tests offered by a law enforcement officer.

Section 18. KRS 189.530 is amended to read as follows:

(1) No person shall provide a motor vehicle to another to operate upon a highway, knowing that the other person is in an intoxicated condition, or under the influence of any substance which may impair one's driving ability.

(2) A person is guilty of possession of an open alcoholic beverage container in a motor vehicle, when he or she has in his or her possession an open alcoholic beverage container in the passenger area of a motor vehicle located on a public highway or on the right-of-way of a public highway. However, nothing in this section shall prohibit the possession of an open alcoholic beverage container by an individual who is strictly a passenger and not the driver, in the passenger area of a motor vehicle maintained or used primarily for the transportation of persons for compensation, such as buses, taxis, and limousines, or in a recreational vehicle, motor home, or motor coach.

(3) For purposes of this section, "alcoholic beverage" means:

(a) Beer, ale, porter, stout, and other similar fermented beverages including sake or similar products of any name or description containing one-half of one percent (0.5%) or more of alcohol by volume, brewed or produced from malt, wholly or in part, or from any substitute therefor;

(b) Wine of not less than one-half of one percent (0.5%) of alcohol by volume; or

(c) Distilled spirits which is that substance known as ethyl alcohol, ethanol, or spirits of wine in any form including all dilutions and mixtures thereof from whatever source or by whatever process produced.

(4) For the purposes of this section "open alcoholic beverage container" means any bottle, can, or other receptacle that contains any amount of alcoholic beverage, and

(a) Is open or has a broken seal; or

(b) The contents of which are partially removed.

(5) For the purposes of this section "passenger area" means the area designed to seat the driver and the passengers while the motor vehicle is in operation and any area that is readily accessible to the driver or a passenger while in their seating positions, including the glove compartment. Passenger area does not include possession of an open alcoholic beverage container in a locked glove compartment, or behind the last upright seat or in an area not normally occupied by the driver or a passenger in a motor vehicle that is not equipped with a trunk.

(6) For the purpose of this section "public highway" or "right-of-way of a public highway" means the entire width between and immediately adjacent to the boundary lines of every way publicly maintained when any part thereof is open to the use of the public for purposes of vehicular travel.

(7) No person shall, as a result of a single course of conduct, be charged with or convicted of a violation of this section and a violation of KRS 222.202 or KRS 525.100. The attorney for the Commonwealth shall elect under which statute to proceed. A conviction, decision not to prosecute, or dismissal of charges under any of these statutes shall operate as a bar to prosecution under any other of these statutes.

SECTION 19. A NEW SECTION OF KRS CHAPTER 189A IS CREATED TO READ AS FOLLOWS:

(1) Upon the conviction of a second or subsequent offense of Section 2 of this Act, a person shall have the license plate or plates on all of the motor vehicles owned by him or her, either solely or jointly, impounded by the court of competent jurisdiction in accordance with the following procedures:

(a) At the final sentencing hearing, the person who has been convicted of a second or subsequent offense of subsection (1)(a), (b), (c), or (d) of Section 2 of this Act, shall physically surrender any and all license plate or plates currently in force on any motor vehicle owned either individually or jointly by him or her to the court. The order of the court suspending the license plate or plates shall not exceed the time for the suspension of the motor vehicle operator's license of the second or subsequent offender as specified in KRS 189A.070.

(b) The clerk of the court shall retain any surrendered plate or plates and transmit all surrendered plate or plates to the Transportation Cabinet in the manner set forth by the Transportation Cabinet in administrative regulations promulgated by the Transportation Cabinet.

(2) At the final sentencing hearing, and upon application, the court may grant hardship exceptions to family members or other individuals affected by the surrender of any license plate or plates of any vehicle owned by the second or subsequent offender. Hardship exceptions may be granted by the court to the second or subsequent offender's family members or other affected individuals only if the family members or other affected individuals prove to the court's satisfaction that their inability to utilize the surrendered vehicles would pose an undue hardship upon the family members or affected other individuals. Upon the court's granting of hardship exceptions, the clerk shall return to the family members or other affected individuals the license plate or plates of the vehicles of the second or subsequent offender for their utilization. The second or subsequent offender shall not be permitted to utilize a vehicle for which the license plate has been suspended or for which a hardship exception has been granted under any circumstances.

(3) If the license plate of a jointly owned vehicle is impounded, this vehicle may be sold to a joint owner of the vehicle who was not the violator.

(4) If the license plate of a motor vehicle is impounded, the vehicle may be transferred.

Section 20. KRS 186.018 is amended to read as follows:

(1) For purposes of maintaining driving history records of operators of motor vehicles of the Commonwealth, the files of the Transportation Cabinet shall be used to ascertain the driving history record of each person who is licensed to operate a motor vehicle within the Commonwealth. Except as provided in subsection (2) of this section, the Transportation Cabinet shall destroy, and shall not maintain records of moving traffic convictions that are more than five (5) years old. Notwithstanding, for any licensee who now holds, who has applied for, or has ever held a Class A, B, or C license issued pursuant to KRS 281A.170, the cabinet shall keep conviction records indefinitely.

(2) The Transportation Cabinet shall not release information on the driving history record of a person under the age of twenty-one (21) whose operator license has been suspended pursuant to KRS 189A.010*(6)*[~~(5)~~]. The cabinet shall destroy, and shall not maintain, the record of the suspension of a person's operator's license if the license was suspended pursuant to KRS 189A.010*(6)*[~~(5)~~], within five (5) working days of the person's operator's license being reinstated.

(3) The cabinet shall charge a fee of three dollars ($3) for any driving history record, ten cents ($0.10) of which shall be deposited in a special account within the road fund to be used exclusively by the Transportation Cabinet for the state driver education program as designated in KRS 186.535.

Section 21. KRS 189A.240 is amended to read as follows:

In any judicial review of a pretrial suspension imposed under KRS 189A.200(1)(b), if the court determines by a preponderance of the evidence that:

(1) The person was charged and arrested by a peace officer with a violation of KRS 189A.010(1)(a), (b), (c), or (d);

(2) The peace officer had reasonable grounds to believe that the person was operating a motor vehicle in violation of KRS 189A.010(1)(a), (b), (c), or (d);

(3) There is probable cause to believe that the person committed the violation of KRS 189A.010(1)(a), (b), (c), or (d) as charged; and

(4) The person has been convicted of one (1) or more prior offenses as described in KRS 189A.010***(5)***~~[(4)]~~(e) or has had his motor vehicle operator's license suspended or revoked on one (1) or more occasions for refusing to take an alcohol concentration or substance test, in the five (5) year period immediately preceding his arrest, then the court shall continue to suspend the person's operator's license or privilege to operate a motor vehicle. The provisions of this section shall not be construed as limiting the person's ability to challenge any prior convictions or license suspensions or refusals.

Section 22. KRS 235.240 is amended to read as follows:

(1) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device in a reckless or negligent manner so as to endanger the life or property of any person.

(2) A person shall not operate any motorboat or vessel, or manipulate any water skis, surfboard, or similar device while intoxicated or under the influence of any other substance which impairs one's driving ability.

(3) Any person who operates a vessel upon the waters of the Commonwealth shall be deemed to have given consent to a test or tests as accepted by the state's evidentiary mandate for the purpose of determining the operator's alcohol concentration or the presence of other drugs. The test or tests shall be administered at the direction of a law enforcement officer who has probable cause to believe that the operator may have been violating this section.

(4) For the purposes of enforcing this section, the elements of the offense are those established in KRS 189A.010(1) to ***(4)***~~[(3)]~~, except that the penalties for this offense are set forth in KRS 235.990.

Section 23. KRS 281A.2102 is amended to read as follows:

In addition to the penalties established by this chapter for driving a commercial motor vehicle under the influence of alcohol:

(1) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is four hundredths (0.04) to eight hundredths (0.08) shall be fined not less than twenty dollars ($20) and not more than fifty dollars ($50).

(2) Any person convicted of driving a commercial motor vehicle while the alcohol concentration of the person's blood or breath is greater than eight hundredths (0.08) shall be fined under the provisions of KRS 189A.010***(5)***~~[(4)]~~(a) to (d).

Section 24. KRS 189A.100 is amended to read as follows:

(1) Law enforcement agencies may administer preliminary breath tests using devices or equipment which will ensure an accurate determination of blood alcohol content. Such tests may be administered in the field to a person suspected of violation of KRS 189A.010 before the person is arrested. This test may be administered in addition to any other blood alcohol level test authorized by law. A person's refusal to take a preliminary breath test shall not be used against him in a court of law or in any administrative proceeding.

(2) Law enforcement agencies may record on film or video tape or by other visual and audible means ***the pursuit of a violator or suspected violator, the traffic stop, and*** field sobriety tests administered at the scene of an arrest for violation of KRS 189A.010 or such tests at a police station, jail, or other suitable facility subject to the following conditions:

(a) The ***pursuit, traffic stop, and*** testing is recorded in its entirety (except for blood alcohol analysis testing); and

(b) The entire recording is shown in court unless the defendant waives the showing of any portions not offered by the prosecution; and

(c) The entire recording is available to be shown by the defense at trial if the defendant so desires regardless of whether it was introduced by the Commonwealth; and

(d) The defendant or his counsel is afforded an opportunity to view the entire recording a reasonable time before the trial in order to prepare an adequate defense; and

(e) Recordings shall be used for official purposes only***, which shall include:***

1. Viewing in court;

2. Viewing by the prosecution and defense in preparation for a trial; and

3. Viewing for purposes of administrative reviews and official administrative proceedings~~[and shall be shown only in court, to the prosecution and defense in preparation for a trial, or upon the order of a court]~~. Recordings shall otherwise be considered as confidential records; and

(f) ***The videotape or film taken in accordance with this section shall, upon order of the District Court, be destroyed after the later of the following:***

1. Fourteen (14) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, or if the videotape or film does not record the actual happening of an accident involving a motor vehicle;

2. Fourteen (14) months after a decision has been made not to prosecute any case upon which an arrest has been made or a citation issued as a result of the videotape or film, if the videotape does not record the actual happening of an accident involving a motor vehicle;

3. Twenty-six (26) months, if there is no appeal of any criminal or traffic case filed as a result of the videotape or film, if the videotape or film records the actual happening of an accident involving a motor vehicle;

4. After all appeals have been exhausted arising from any criminal or traffic case filed as a result of the videotape;

5. At the conclusion of any civil case arising from events depicted on the videotape or film; or

6. At the conclusion of the exhaustion of all appeals arising from any law enforcement agency administrative proceedings arising from events depicted on the videotape or film; and~~[After all appeals have been exhausted the recordings shall, upon the order of a District Court, be destroyed; and]~~

(g) Public officials or employees utilizing or showing recordings other than as permitted in this chapter or permitting others to do so shall be guilty of official misconduct in the first degree.

(3) When a peace officer makes a videotape or film recording of any transaction covered by subsection (2) of this section and a citation is issued or an arrest is made the peace officer shall note on the uniform citation that a videotape has been made of the transaction.

Section 25. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, 189.450 to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) *(a)* Any person who violates KRS 189.530*(1)* shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(b) Any person who violates subsection (2) of Section 18 of this Act shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

   (a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

   (b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

Section 26. The following KRS sections are repealed:

186.642 "Habitual violator" defined.
186.643 Information to be filed by county attorney.
186.644 Hearing.
186.645 Findings of court.
186.646 License not to be issued to habitual violator.
186.647 Restoration of license.
186.648 Appeal.
186.649 Law not to affect existing laws or ordinances of political subdivisions.
186.992 Penalty.
189A.015 Offenses committed prior to July 13, 1984.
189A.060 Pretrial suspension of operator's license.

Section 27. This Act shall become effective October 1, 2000.

The Committee on Labor and Industry reported **HB 992,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 992, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include~~[the effects of the natural aging process, and does not include]~~ any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury. ***Changes that are characteristic of the normal process of becoming older are not an "injury" unless the work or a work-related traumatic event accelerates the normal aging process.***

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the

employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be

regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

(37) "Miner" means any individual who is or was employed in the severance or processing of coal at a coal mine or coal processing facility.

Section 2. KRS 342.035 is amended to read as follows:

(1) Periodically, the commissioner shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges, and reimbursements under KRS 342.020 and this section shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. In determining what fees are reasonable, the commissioner may also consider the increased security of payment afforded by this chapter. On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of April 4, 1994, the commissioner shall execute a contract with an appropriately-qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated; the methods of health care delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the commissioner not later than sixty (60) days following execution of the contract. The commissioner shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.

(2) No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.

(3) Where these requirements are furnished by a public hospital or other institution, payment thereof shall be made to the

proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

(4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and medical reports furnished in the litigation of a claim by an injured employee against the employer. The workers' compensation medical fee schedule for physicians, 803 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect until July 1, 1996, or until the effective date of any amendments promulgated by the commissioner, whichever occurs first, it being determined that this administrative regulation is within the statutory grant of authority, meets legislative intent, and is not in conflict with the provisions of this chapter. The medical fee schedule and amendments shall be fair, current, and reasonable and otherwise comply with this section.

(5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, group self-insurer, and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure compliance.

(b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.

(c) The commissioner shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer, or self-insured employer pursuant to this chapter. ***The commissioner may contract with a third party to conduct utilization review appeals or reconsiderations. Employers or carriers shall pay the costs associated with utilization review appeals or reconsiderations under this paragraph.***

(d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.

(e) ***Except as set forth in subsection (5)(c) of this section,*** the cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.

(6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents ($0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.

(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

Section 3. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for ***the*** determination of the compensability of medical expenses, fraud, or conforming the award as set forth in ***subsection (1)(c)1. of Section 12 of this Act***[~~KRS 342.730(1)(c)2.~~], or for reducing a permanent total disability award when an employee returns to work, ***or seeking temporary total disability benefits during the period of an award***, no claim shall be reopened more than ***six (6)***[~~four (4)~~] years following the date of the original award or order granting or denying benefits[~~, or within two (2) years of such award or order~~], and no party may file a motion to reopen within ***one (1) year***[~~two (2) years~~] of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section ***is remedial and*** shall apply to all claims irrespective of when they were incurred, or when the award was entered, or the settlement approved***, except that subsection (3) of this section shall not be interpreted or construed to permit reopening of a claim on which the reopening period had expired on or before the effective date of this Act***.[~~However, claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.~~]

Section 4. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) ***Of the members of the board appointed under this section, one (1) shall serve a term which shall expire on January 4, 2002; one (1) shall serve a term which shall expire on January 4, 2003; and one (1) shall serve a term which shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter***, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the

remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) Members of the Workers' Compensation Board, arbitrators, and the administrative law judges shall be members of the Kentucky Employees Retirement System.

[~~(6) The Workers' Compensation Board is abolished effective on July 1, 2000, and as of midnight, June 30, 2000, the terms of all Workers' Compensation Board members shall end. Thereafter, appeals from the final orders of administrative law judges shall be directed to the Court of Appeals under the same standards set forth in this chapter for appeals to the Workers' Compensation Board.~~]

Section 5. KRS 342.265 is amended to read as follows:

(1) If the employee and employer and special fund or any of them reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement signed by the parties or their representatives shall be filed with the commissioner, and, if approved by an arbitrator or administrative law judge, shall be enforceable pursuant to KRS 342.305. Where all parties have not joined in the settlement agreement, it shall not be approved unless it is certified that the party not participating in the settlement has been served with a copy of the agreement not less than ten (10) days prior to submission of the agreement for approval. This provision shall not be construed to prevent the voluntary payment of compensation for the periods and in the amounts prescribed by this chapter, but nothing shall operate as a final settlement except a memorandum of agreement filed with the commissioner and approved by the arbitrator or administrative law judge. Upon claims settled after December 12, 1996, the special fund shall have the option of settling its liability for income benefits on the same terms as those reached between the employee and employer. Notice of the special fund exercise of the option granted in this subsection shall be made by letter of the director of the special fund mailed to the parties within ten (10) days of receipt by the director of a copy of the agreement.

(2) Settlement agreements concluded after ***the effective date of this Act***[~~March 31, 1997~~], providing for commuted lump-sum payment of future income benefits which would otherwise be payable in amounts greater than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] per week shall not be approved unless there is reasonable assurance that the worker will have an adequate source of income during disability. This subsection is remedial and applies to all pending and future claims.

(3) Upon lump-sum settlement of future periodic payments, the discount rate used in the calculation of the settlement amount shall not exceed a reasonable amount fixed by the commissioner. For settlements approved after December 12, 1996, until December 31, 1997, the true discount rate shall be six percent (6%) compounded annually on each payment. Before January 1 of each year commencing in ***2001***[~~1998~~], the commissioner shall fix the discount rate to be utilized in the succeeding year based ***at one-half of one percent (0.5%) below***[~~upon~~] the interest rate paid upon ten (10) year United States Treasury Notes as of ***August***[~~July~~] 1 of the preceding year.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge or arbitrator, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for resolution of claim shall be held in abeyance during any period voluntary payments of income benefits are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 6. KRS 342.267 is amended to read as follows:

(1) If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier.

(2) In addition to the penalties provided in subsection (1) of this section, if an employee demonstrates in any claim before an arbitrator or administrative law judge that the insurance carrier, self-insurance group, or self-insured employer engaged in conduct proscribed in subsection (1) of this section, the arbitrator or administrative law judge shall impose penalties to be paid to the employee in the manner required in KRS 342.040, and an additional penalty equal to fifteen percent (15%) of past due income benefits, as well as impose costs under KRS 342.310.

(3) In addition to the penalties set forth in subsections (1) and (2) of this section, if an employee demonstrates that the carrier, self-insurance group, or self-insured employer delayed the delivery of necessary medical services or denied

liability for necessary medical services without reasonable grounds, the arbitrator or administrative law judge shall impose a penalty to be paid to the employee not exceeding five thousand dollars ($5,000), as well as impose costs under KRS 342.310.

Section 7. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) ~~[Except with respect to claims for benefits by reason of coal workers' pneumoconiosis,]~~The commissioner shall issue notice of the filing to all parties and shall promptly assign ***all applications for resolution of claims for workers who have returned to work***~~[the claim]~~ to an arbitrator***, and all claims for workers who have not returned to work to an administrative law judge***~~[for benefit review]~~. The arbitrator ***or administrative law judge*** shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) (a) The arbitrator ***or administrative law judge*** shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.

(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.

(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.

(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.

(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(7) ***In claims assigned to an administrative law judge provided in subsections (2) and (3)(b) of this section, the benefit review conference shall be conducted in accordance with KRS 342.275***~~[Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims]~~.

Section 8. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, or a diagnosis of the disease is first communicated to him, whichever shall first occur.

(3) The procedure for filing occupational disease claims shall be as follows:

(a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.

  1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination as well as spirometric tests when pulmonary dysfunction is alleged.
  2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.

(b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:

  1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.
  2. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.
  3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
  4. The procedure for determination of occupational disease claims shall be as follows:
     a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.
     b. The commissioner shall assign the claim to an ***administrative law judge***~~[arbitrator]~~ and shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.
     c. Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.
     d. The ***administrative law judge***~~[arbitrator]~~ shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.
     e. Unless a voluntary settlement is reached by the parties, the ***administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless an***

extension is mutually agreed to by all parties. The award, order, or decision shall address all contested issues and shall be enforceable under KRS 342.305~~[arbitrator shall issue a written determination within ninety (90) days following assignment of the claim. The written determination shall address all contested issues and shall be enforceable under KRS 342.305]~~.

5. The procedure for appeal from a determination of an ***administrative law judge***~~[arbitrator]~~ shall be as set forth in KRS ***342.285***~~[342.275]~~.

(4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:

(a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and

(c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).

(6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.

(9) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.

(10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except

as otherwise provided in this chapter.

(11) (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.

(b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.

(12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

Section 9. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge or arbitrator pursuant to the statutes and administrative regulations.

(2) ***In an original claim,*** attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent (20%) of the ***first twenty-five thousand dollars ($25,000) of the*** award***, fifteen percent (15%) of the next ten thousand dollars ($10,000), and five percent (5%) of the remainder of the award,*** not to exceed ***a maximum fee of twelve thousand dollars ($12,000)***[~~two thousand dollars ($2,000) for services performed up to and including the date of a written determination by the arbitrator~~]. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b)[~~ Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.~~

~~(c)~~] Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall ***assess***[~~fix~~] an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under ***paragraph (a)***[~~paragraphs (a) and (b)~~] of this subsection. ***However, for legal representation before an administrative law judge, the fee assessed under this paragraph shall be considered by the administrative law judge in fixing the amount of the fee to be paid under paragraph (a) of this subsection.***

(c)[~~(d)~~]Attorney-client employment contracts entered into and signed ***after the effective date of this Act***[~~prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996~~], shall[~~ not~~] be subject to the conditions of paragraphs (a) ***and***[~~,~~] (b)[~~, and (c)~~] of this subsection[~~, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply~~].

(3) In approving an allowance of attorney's fees, the administrative law judge or arbitrator shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.[~~ The date of injury or last exposure shall control the applicable maximum attorney's fee.~~]

(4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the arbitrator or administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the ***claim***[~~written determination of an arbitrator or last appealable order of an administrative law judge~~]. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The arbitrator or administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge and arbitrator shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the arbitrator or administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the arbitrator or administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)***(a)***~~[(b)]~~ of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge or arbitrator in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the ***limitation of twelve thousand dollars ($12,000)***~~[same limitations as to]~~ maximum fees~~[at each level]~~ except that fees for~~[representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed two thousand dollars ($2,000). Fees for]~~ representing employers shall not be dependent upon the result achieved. ***Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed.*** Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

~~[(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter.]~~

Section 10. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the arbitrator or administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The arbitrator or administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the arbitrator or administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the arbitrator or administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods***, except that enhanced income benefits for permanently partially disabled workers otherwise payable under Section 11 of this Act shall only be paid during fifty-two (52) weeks of vocational rehabilitation training***.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an arbitrator or administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation and the

Department for Employment Services of the Kentucky Cabinet for Workforce Development. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the arbitrator or administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who ***has completed a program of retraining and has accepted a bona fide offer of employment, at a location more than fifty (50) miles from the employee's usual residence, in the field for which the employee has been trained may elect to be paid from the balance of the award a lump sum of three thousand dollars ($3,000) to be paid without discount but deducted in equal amounts from weekly payments otherwise due***~~[is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable]~~ under the award.

Section 11. KRS 342.715 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 342.730, during the period the employee is eligible for permanent~~[total]~~ disability benefits and is actively participating ***as a full-time student*** in a vocational~~[or physical]~~ rehabilitation program, pursuant to an order of the arbitrator or administrative law judge, the employee's benefits shall be calculated ***as follows:***

(a) For partial disability, the employee shall receive the greater of the permanent partial disability award or fifty percent (50%) of seventy-five percent (75%) of the state average weekly wage; or

(b) For total disability, the employee shall receive eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state average weekly wage.

(2) Income benefits received under subsection (1) of this section shall be credited on a week-by-week basis against the employee's award.

(3) An employee with a partial disability award under Section 12 of this Act who is participating as a full-time student in a rehabilitation program may elect to accelerate payment of an additional sixteen and two-thirds percent (16-2/3%) of his average weekly wage so that during rehabilitative training, partial disability payments equal sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage. The additional sixteen and two-thirds percent (16-2/3%) shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due to the employee following the period of rehabilitative training. The dollar-for-dollar credit shall apply only to the additional sixteen and two-thirds percent (16-2/3%) received under this subsection and does not apply to benefits received under subsection (1) of this section. The sum total of payments remaining due under the award, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis under this subsection shall be discounted at the rate set forth in Section 5 of this Act and deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. The sum total remaining on the award shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee~~[by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the permanent disability rating as determined in this chapter]~~.

Section 12. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS

342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 5%	*0.50*[~~0.75~~]
6 to 10%	*0.65*[~~1.00~~]
11 to 15%	*0.85*[~~1.25~~]
16 to 20%	*1.00*[~~1.50~~]
21 to 25%	*1.15*[~~1.75~~]
26 to 30%	*1.35*[~~2.00~~]
31 to 35%	*1.50*[~~2.25~~]
36% and above	*1.70*[~~2.50~~]

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter***, except as set forth in Section 11 of this Act***[~~to the contrary~~], there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. ***a. If following an injury, an employee returns to the type of work at the same or greater wage as earned at the time of injury, the benefit for permanent partial disability shall be determined under paragraph (b) of this subsection. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly income benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection, unless the employee does not retain the physical capacity to return to the type of work performed at the time of injury in which event the benefit shall be three (3) times the amount otherwise payable under paragraph (b) of this subsection;***

b. If following an injury, an employee does not return to work at the same or greater wage than earned at the time of the injury, the benefit for permanent partial disability shall be two (2) times the amount otherwise payable in paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.

c. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be ***three (3)***[~~one and one-half (1-1/2)~~] times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. ***Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1.c. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by 0.4; if the employee had less than twelve (12) years of education or a high school General Equivalency Diploma, the multiplier shall be increased by 0.2; if the employee was age sixty (60) or older, the multiplier shall be increased by 0.6; if the employee was age fifty-five (55) or older, the multiplier shall be increased by 0.4; and if the employee was age fifty (50) or older, the multiplier shall be increased by 0.2***[~~If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection~~].

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of ***paragraph (c)1.a. and b. of this subsection***[~~subparagraph 2. of this paragraph~~].

(d) For permanent partial disability, if an employee has a permanent ***impairment***[~~disability~~] rating of ***less than twenty-six percent (26%)***[~~fifty percent (50%) or less~~] as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent ***impairment***[~~disability~~] rating is greater than ***twenty-six percent (26%)***[~~fifty percent (50%)~~], the compensable permanent partial disability period shall be five hundred twenty (520) weeks[~~ from the date the impairment or disability exceeding fifty percent (50%) arises~~]. Benefits payable for permanent partial disability shall not exceed[~~ ninety-nine percent (99%) of~~] sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage[~~, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability~~].

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall ***be reduced by twenty-five percent (25%)***[~~terminate~~] as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f***; by an additional twenty-five percent (25%) of the original income benefit one (1) year thereafter; by an additional twenty-five percent (25%) of the original benefit at the beginning of the third year, and shall terminate entirely at the end of the employee's third year of receipt of old-age Social Security retirement benefits, except that the employee shall be paid full income benefits as set forth in the award for a period of***[~~, or~~] two (2) years after the employee's injury or last exposure, ***and thereafter if the employee qualifies for normal old-age Social Security retirement, benefits shall be reduced at the rate of twenty-five percent (25%) per year over a period of three (3) years and terminate entirely at the end of the third year***[~~whichever last occurs~~]. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be

offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Section 13. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) If an employee has a radiographic classification of category *1/0*~~[1/1 or 1/2]~~, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by report of X-ray which conforms to the standards for X-rays contained in subsection (3) of KRS 342.316, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, *or category 1/1 or 1/2 pneumoconiosis and respiratory impairment evidenced by spirometric test values of eighty percent (80%) or more,* the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740 but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one-hundred-eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars ($3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.

(b) *If an employee has a radiographic classification of category 1/0, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by a report of X-ray which conforms to the standards for X-rays contained in subsection (3) of Section 8 of this Act, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or category 1/1 or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance or processing of coal as defined in subsection (23)(a) of Section 1 of this Act.*

(c) If it is determined that an employee has a radiographic classification of category 1/1 or 1/2, based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, *or category 3/2 or 3/3 coal workers'*

pneumoconiosis and spirometric test values of eighty percent (80%) or more, there shall be an irrebuttable presumption that the employee has ***a***[~~an occupational~~] disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage ***but not to exceed seventy-five percent (75%) of the state average weekly wage as determined in KRS 342.740*** multiplied by the disability rating of fifty percent (50%)[~~ but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740~~]. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(d)[~~(c)~~]If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee ***has a***[~~is~~] seventy-five percent (75%) ***disability rating***[~~disabled~~] resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage ***but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740*** multiplied by the disability rating of seventy-five percent (75%)[~~ but not to exceed seventy-five percent (75%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740~~]. The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(e)[~~(d)~~]If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge or arbitrator that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge or arbitrator shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) ***If a miner has fifteen (15) years or more of employment in coal mines or processing facilities as shown by Social Security records and has developed coal workers' pneumoconiosis and respiratory impairment criteria established in this section, it shall be rebuttably presumed that coal dust exposure was a significant contributing factor in the development of respiratory impairment.***

(5) A miner who is age fifty-five (55) or older on the date of the last occupational exposure to coal dust who is otherwise entitled to an award of retraining incentive benefits provided in subsection (1)(a) of this section may elect to be awarded in lieu thereof an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined in KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period of four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee

continues to work in the mining industry in the severance and processing of coal as defined in subsection (23)(a) of Section 1 of this Act.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

(7) Notwithstanding the provisions of Section 3 of this Act, all claims for benefits under this section, which were filed for the last injurious occupational exposure to coal dust occurring between December 12, 1996, and the effective date of this Act, shall be reconsidered under administrative regulations promulgated by the commissioner and may be reopened upon the existing record and benefits shall be awarded thereon as if the entitlement standards established by the amendments to this section were effective at the time of the last exposure. Any benefits previously granted by an award or settlement shall be credited against the reconsidered award or settlement. All additional benefits shall be paid from the Kentucky Coal Workers' Pneumoconiosis Fund, the provisions of KRS 342.1242 notwithstanding. Claims which were dismissed upon a finding that the miner had not proven development of coal workers' pneumoconiosis and claims which were dismissed for reasons other than failure to meet medical criteria shall not be reopened or reconsidered under this subsection.

(8) The claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis between December 12, 1996, and the effective date of this Act, shall nonetheless be governed by the provisions of this section as amended on the effective date of this Act with any additional benefits awarded to the miner under this section to be paid from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding.

(9) Notwithstanding the provisions of Section 8(4)(a) of this Act, the claim of any miner last exposed between December 12, 1996, and December 11, 1997, may be filed with the commissioner within four (4) years after the last exposure to the occupational hazard or after the employee first experiences a distinct manifestation of the occupational disease. The right to compensation shall be forever barred, however, unless a claim is filed within five (5) years from the last injurious exposure to the occupational hazard. Any additional benefits awarded to the miner under this section shall to be paid by the Kentucky Coal Workers' Fund, the provisions of KRS 342.1242 notwithstanding.

SECTION 14. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter to the contrary, the commissioner shall evaluate alternate methods of establishing workers' compensation insurance rates for employers in the construction industry and shall, within one hundred eighty (180) days of the effective date of this Act, promulgate administrative regulations prescribing that insurance carriers or rating organizations licensed under KRS 304.13-091 develop a method of computing workers' compensation premiums that does not discriminate against or penalize employers in the construction industry solely because they pay higher wages than other employers to workers in the same job classifications.

The Committee Substitute No. 1 to **HB** 992 is as follows:

HB 992, AN ACT relating to workers' compensation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 342.0011 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Injury" means any work-related traumatic event or series of traumatic events, including cumulative trauma, arising out of and in the course of employment which is the proximate cause producing a harmful change in the human organism evidenced by objective medical findings. "Injury" does not include~~[the effects of the natural aging process, and does not include]~~ any communicable disease unless the risk of contracting the disease is increased by the nature of the employment. "Injury" when used generally, unless the context indicates otherwise, shall include an occupational disease and damage to a prosthetic appliance, but shall not include a psychological, psychiatric, or stress-related change in the human organism, unless it is a direct result of a physical injury. ***Changes that are characteristic of the normal process of becoming older are not an "injury" unless the work or a work-related traumatic event accelerates the normal aging process.***

(2) "Occupational disease" means a disease arising out of and in the course of the employment.

(3) An occupational disease as defined in this chapter shall be deemed to arise out of the employment if there is apparent to the rational mind, upon consideration of all the circumstances, a causal connection between the conditions under which the work is performed and the occupational disease, and which can be seen to have followed as a natural incident to the work as a result of the exposure occasioned by the nature of the employment and which can be fairly traced to the employment as the proximate cause. The occupational disease shall be incidental to the character of the business and not independent of the relationship of employer and employee. An occupational disease need not have been foreseen or expected but, after its contraction, it must appear to be related to a risk connected with the employment and to have flowed from that source as a rational consequence.

(4) "Injurious exposure" shall mean that exposure to occupational hazard which would, independently of any other cause

whatsoever, produce or cause the disease for which the claim is made.

(5) "Death" means death resulting from an injury or occupational disease.

(6) "Carrier" means any insurer, or legal representative thereof, authorized to insure the liability of employers under this chapter and includes a self-insurer.

(7) "Self-insurer" is an employer who has been authorized under the provisions of this chapter to carry his own liability on his employees covered by this chapter.

(8) "Department" means the Department of Workers' Claims in the Labor Cabinet.

(9) "Commissioner" means the commissioner of the Department of Workers' Claims.

(10) "Board" means the Workers' Compensation Board.

(11) (a) "Temporary total disability" means the condition of an employee who has not reached maximum medical improvement from an injury and has not reached a level of improvement that would permit a return to employment;

(b) "Permanent partial disability" means the condition of an employee who, due to an injury, has a permanent disability rating but retains the ability to work; and

(c) "Permanent total disability" means the condition of an employee who, due to an injury, has a permanent disability rating and has a complete and permanent inability to perform any type of work as a result of an injury, except that total disability shall be irrebuttably presumed to exist for an injury that results in:

1. Total and permanent loss of sight in both eyes;
2. Loss of both feet at or above the ankle;
3. Loss of both hands at or above the wrist;
4. Loss of one (1) foot at or above the ankle and the loss of one (1) hand at or above the wrist;
5. Permanent and complete paralysis of both arms, both legs, or one (1) arm and one (1) leg;
6. Incurable insanity or imbecility; or
7. Total loss of hearing.

(12) "Income benefits" means payments made under the provisions of this chapter to the disabled worker or his dependents in case of death, excluding medical and related benefits.

(13) "Medical and related benefits" means payments made for medical, hospital, burial, and other services as provided in this chapter, other than income benefits.

(14) "Compensation" means all payments made under the provisions of this chapter representing the sum of income benefits and medical and related benefits.

(15) "Medical services" means medical, surgical, dental, hospital, nursing, and medical rehabilitation services, medicines, and fittings for artificial or prosthetic devices.

(16) "Person" means any individual, partnership, including a registered limited liability partnership, limited partnership, limited liability company, firm, association, trust, joint venture, corporation, limited liability company, or legal representative thereof.

(17) "Wages" means, in addition to money payments for services rendered, the reasonable value of board, rent, housing, lodging, fuel, or similar advantages received from the employer, and gratuities received in the course of employment from persons other than the employer as evidenced by the employee's federal and state tax returns.

(18) "Agriculture" means the operation of farm premises, including the planting, cultivation, producing, growing, harvesting, and preparation for market of agricultural or horticultural commodities thereon, the raising of livestock for food products and for racing purposes, and poultry thereon, and any work performed as an incident to or in conjunction with the farm operations. It shall not include the commercial processing, packing, drying, storing, or canning of such commodities for market, or making cheese or butter or other dairy products for market.

(19) "Beneficiary" means any person who is entitled to income benefits or medical and related benefits under this chapter.

(20) "United States," when used in a geographic sense, means the several states, the District of Columbia, the Commonwealth of Puerto Rico, the Canal Zone, and the territories of the United States.

(21) "Alien" means a person who is not a citizen, a national, or a resident of the United States or Canada. Any person not a citizen or national of the United States who relinquishes or is about to relinquish his residence in the United States shall be regarded as an alien.

(22) "Insurance carrier" means every insurance carrier or insurance company authorized to do business in the Commonwealth writing workers' compensation insurance coverage and includes the Kentucky Employers Mutual Insurance Authority and every group of self-insurers operating under the provisions of this chapter.

(23) (a) "Severance or processing of coal" means all activities performed in the Commonwealth at underground, auger, and

surface mining sites; all activities performed at tipple or processing plants that clean, break, size, or treat coal; and all activities performed at coal loading facilities for trucks, railroads, and barges. Severance or processing of coal shall not include acts performed by a final consumer if the acts are performed at the site of final consumption.

(b) "Engaged in severance or processing of coal" shall include all individuals, partnerships, including registered limited liability partnerships, limited partnerships, limited liability companies, corporations, joint ventures, associations, or any other business entity in the Commonwealth which has employees on its payroll who perform any of the acts stated in paragraph (a) of this subsection, regardless of whether the acts are performed as owner of the coal or on a contract or fee basis for the actual owner of the coal. A business entity engaged in the severance or processing of coal, including, but not limited to, administrative or selling functions, shall be considered wholly engaged in the severance or processing of coal for the purpose of this chapter. However, a business entity which is engaged in a separate business activity not related to coal, for which a separate premium charge is not made, shall be deemed to be engaged in the severance or processing of coal only to the extent that the number of employees engaged in the severance or processing of coal bears to the total number of employees. Any employee who is involved in the business of severing or processing of coal and business activities not related to coal shall be prorated based on the time involved in severance or processing of coal bears to his total time.

(24) "Premium" for every group of self-insurers means any and all assessments levied on its members by such group or contributed to it by the members thereof. For special fund assessment purposes, "premium" also includes any and all membership dues, fees, or other payments by members of the group to associations or other entities used for underwriting, claims handling, loss control, premium audit, actuarial, or other services associated with the maintenance or operation of the self-insurance group.

(25) (a) "Premiums received" for policies effective on or after January 1, 1994, for insurance companies means direct written premiums as reported in the annual statement to the Kentucky Department of Insurance by insurance companies, except that "premiums received" includes premiums charged off or deferred, and, on insurance policies or other evidence of coverage with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modification, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premiums received" includes the initial premium plus any reimbursements invoiced for losses, expenses, and fees charged under the deductibles. The special fund assessment rates in effect for reimbursements invoiced for losses, expenses, or fees charged under the deductibles shall be those percentages in effect on the effective date of the insurance policy. For policies covering leased employees as defined in KRS 342.615, "premiums received" means premiums calculated using the experience modification factor of each lessee as defined in KRS 342.615 for each leased employee for that portion of the payroll pertaining to the leased employee.

(b) "Direct written premium" for insurance companies means the gross premium written less return premiums and premiums on policies not taken but including policy and membership fees.

(c) "Premium," for policies effective on or after January 1, 1994, for insurance companies means all consideration, whether designated as premium or otherwise, for workers' compensation insurance paid to an insurance company or its representative, including, on insurance policies with provisions for deductibles, the calculated cost for coverage, including experience modification and premium surcharge or discount, prior to any reduction for deductibles. The rates, factors, and methods used to calculate the cost for coverage under this paragraph for insurance policies or other evidence of coverage with provisions for deductibles shall be the same rates, factors, and methods normally used by the insurance company in Kentucky to calculate the cost for coverage for insurance policies or other evidence of coverage without provisions for deductibles, except that, for insurance policies or other evidence of coverage with provisions for deductibles effective on or after January 1, 1995, the calculated cost for coverage shall not include any schedule rating modifications, debits, or credits. The cost for coverage calculated under this paragraph by insurance companies that issue only deductible insurance policies in Kentucky shall be actuarially adequate to cover the entire liability of the employer for compensation under this chapter, including all expenses and allowances normally used to calculate the cost for coverage. For policies with provisions for deductibles with effective dates of May 6, 1993, through December 31, 1993, for which the insurance company did not report premiums and remit special fund assessments based on the calculated cost for coverage prior to the reduction for deductibles, "premium" includes the initial consideration plus any reimbursements invoiced for losses, expenses, or fees charged under the deductibles.

(d) "Return premiums" for insurance companies means amounts returned to insureds due to endorsements, retrospective adjustments, cancellations, dividends, or errors.

(26) "Insurance policy" for an insurance company or group self-insurer means the term of insurance coverage commencing from the date coverage is extended, whether a new policy or a renewal, through its expiration, not to exceed the anniversary date of the renewal for the following year.

(27) "Self-insurance year" for a group self-insurer means the annual period of certification of the group created pursuant to KRS 342.350(4).

(28) "Premium" for each employer carrying his own risk pursuant to KRS 342.340(1) shall be the projected value of the employer's workers' compensation claims for the next calendar year as calculated by the commissioner using generally-accepted actuarial methods as follows:

(a) The base period shall be the earliest three (3) calendar years of the five (5) calendar years immediately preceding the calendar year for which the calculation is made. The commissioner shall identify each claim of the employer which has an injury date or date of last injurious exposure to the cause of an occupational disease during each one (1) of the three (3) calendar years to be used as the base, and shall assign a value to each claim. The value shall be the total of the indemnity benefits paid to date and projected to be paid, adjusted to current benefit levels, plus the medical benefits paid to date and projected to be paid for the life of the claim, plus the cost of medical and vocational rehabilitation paid to date and projected to be paid. Adjustment to current benefit levels shall be done by multiplying the weekly indemnity benefit for each claim by the number obtained by dividing the statewide average weekly wage which will be in effect for the year for which the premium is being calculated by the statewide average weekly wage in effect during the year in which the injury or date of the last exposure occurred. The total value of the claims using the adjusted weekly benefit shall then be calculated by the commissioner. Values for claims in which awards have been made or settlements reached because of findings of permanent partial or permanent total disability shall be calculated using the mortality and interest discount assumptions used in the latest available statistical plan of the advisory rating organization defined in Subtitle 13 of KRS Chapter 304. The sum of all calculated values shall be computed for all claims in the base period.

(b) The commissioner shall obtain the annual payroll for each of the three (3) years in the base period for each employer carrying his own risk from records of the department and from the records of the Department for Employment Services, Cabinet for Workforce Development. The commissioner shall multiply each of the three (3) years of payroll by the number obtained by dividing the statewide average weekly wage which will be in effect for the year in which the premium is being calculated by the statewide average weekly wage in effect in each of the years of the base period.

(c) The commissioner shall divide the total of the adjusted claim values for the three (3) year base period by the total adjusted payroll for the same three (3) year period. The value so calculated shall be multiplied by 1.25 and shall then be multiplied by the employer's most recent annualized payroll, calculated using records of the department and the Department for Employment Services data which shall be made available for this purpose on a quarterly basis as reported, to obtain the premium for the next calendar year for assessment purposes under KRS 342.122.

(d) For November 1, 1987, through December 31, 1988, premium for each employer carrying his own risk shall be an amount calculated by the board pursuant to the provisions contained in this subsection and such premium shall be provided to each employer carrying his own risk and to the funding commission on or before January 1, 1988. Thereafter, the calculations set forth in this subsection shall be performed annually, at the time each employer applies or renews his application for certification to carry his own risk for the next twelve (12) month period and submits payroll and other data in support of the application. The employer and the funding commission shall be notified at the time of the certification or recertification of the premium calculated by the commissioner, which shall form the employer's basis for assessments pursuant to KRS 342.122 for the calendar year beginning on January 1 following the date of certification or recertification.

(e) If an employer having fewer than five (5) years of doing business in this state applies to carry his own risk and is so certified, his premium for the purposes of KRS 342.122 shall be based on the lesser number of years of experience as may be available including the two (2) most recent years if necessary to create a three (3) year base period. If the employer has less than two (2) years of operation in this state available for the premium calculation, then his premium shall be the greater of the value obtained by the calculation called for in this subsection or the amount of security required by the commissioner pursuant to KRS 342.340(1).

(f) If an employer is certified to carry his own risk after having previously insured the risk, his premium shall be calculated using values obtained from claims incurred while insured for as many of the years of the base period as may be necessary to create a full three (3) year base. After the employer is certified to carry his own risk and has paid all amounts due for assessments upon premiums paid while insured, he shall be assessed only upon the premium calculated under this subsection.

(g) "Premium" for each employer defined in KRS 342.630(2) shall be calculated as set forth in this subsection.

(h) Notwithstanding any other provision of this subsection, the premium of any employer authorized to carry its own risk for purposes of assessments due under this chapter shall be no less than thirty cents ($0.30) per one hundred dollars ($100) of the employer's most recent annualized payroll for employees covered by this chapter.

(29) "SIC code" as used in this chapter means the Standard Industrial Classification Code contained in the latest edition of the Standard Industrial Classification Manual published by the Federal Office of Management and Budget.

(30) "Investment interest" means any pecuniary or beneficial interest in a provider of medical services or treatment under this chapter, other than a provider in which that pecuniary or investment interest is obtained on terms equally available to the public through trading on a registered national securities exchange, such as the New York Stock Exchange or the American Stock Exchange, or on the National Association of Securities Dealers Automated Quotation System.

(31) "Managed health care system" means a health care system that employs gatekeeper providers, performs utilization review, and does medical bill audits.

(32) "Physician" means physicians and surgeons, psychologists, optometrists, dentists, podiatrists, and osteopathic and chiropractic practitioners acting within the scope of their license issued by the Commonwealth.

(33) "Objective medical findings" means information gained through direct observation and testing of the patient applying objective or standardized methods.

(34) "Work" means providing services to another in return for remuneration on a regular and sustained basis in a competitive economy.

(35) "Permanent impairment rating" means percentage of whole body impairment caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest available edition.

(36) "Permanent disability rating" means the permanent impairment rating selected by an arbitrator or administrative law judge times the factor set forth in the table that appears at KRS 342.730(1)(b).

(37) "Miner" means any individual who is or was employed in the severance or processing of coal at a coal mine or coal processing facility.

Section 2. KRS 342.035 is amended to read as follows:

(1) Periodically, the commissioner shall promulgate administrative regulations to adopt a schedule of fees for the purpose of ensuring that all fees, charges, and reimbursements under KRS 342.020 and this section shall be fair, current, and reasonable and shall be limited to such charges as are fair, current, and reasonable for similar treatment of injured persons in the same community for like services, where treatment is paid for by general health insurers. In determining what fees are reasonable, the commissioner may also consider the increased security of payment afforded by this chapter. On or before November 1, 1994, and on July 1 every two (2) years thereafter, the schedule of fees contained in administrative regulations promulgated pursuant to this section shall be reviewed and updated, if appropriate. Within ten (10) days of April 4, 1994, the commissioner shall execute a contract with an appropriately-qualified consultant pursuant to which each of the following elements within the workers' compensation system are evaluated; the methods of health care delivery; quality assurance and utilization mechanisms; type, frequency, and intensity of services; risk management programs; and the schedule of fees contained in administrative regulation. The consultant shall present recommendations based on its review to the commissioner not later than sixty (60) days following execution of the contract. The commissioner shall consider these recommendations and, not later than thirty (30) days after their receipt, promulgate a regulation which shall be effective on an emergency basis, to effect a twenty-five percent (25%) reduction in the total medical costs within the program.

(2) No provider of medical services or treatment required by this chapter, its agent, servant, employee, assignee, employer, or independent contractor acting on behalf of any medical provider, shall knowingly collect, attempt to collect, coerce, or attempt to coerce, directly or indirectly, the payment of any charge, for services covered by a workers' compensation insurance plan for the treatment of a work-related injury or occupational disease, in excess of that provided by a schedule of fees, or cause the credit of any employee to be impaired by reason of the employee's failure or refusal to pay the excess charge. In addition to the penalty imposed in KRS 342.990 for violations of this subsection, any individual who sustains damages by any act in violation of the provisions of this subsection shall have a civil cause of action in Circuit Court to enjoin further violations and to recover the actual damages sustained by the individual, together with the costs of the lawsuit, including a reasonable attorney's fee.

(3) Where these requirements are furnished by a public hospital or other institution, payment thereof shall be made to the proper authorities conducting it. No compensation shall be payable for the death or disability of an employee if his death is caused, or if and insofar as his disability is aggravated, caused, or continued, by an unreasonable failure to submit to or follow any competent surgical treatment or medical aid or advice.

(4) The commissioner shall, by December 1, 1994, promulgate administrative regulations to adopt a schedule of fees for the purpose of regulating charges by medical providers and other health care professionals for testimony presented and

medical reports furnished in the litigation of a claim by an injured employee against the employer. The workers' compensation medical fee schedule for physicians, 803 KAR 25:089, having an effective date of February 9, 1995, shall remain in effect until July 1, 1996, or until the effective date of any amendments promulgated by the commissioner, whichever occurs first, it being determined that this administrative regulation is within the statutory grant of authority, meets legislative intent, and is not in conflict with the provisions of this chapter. The medical fee schedule and amendments shall be fair, current, and reasonable and otherwise comply with this section.

(5) (a) To ensure compliance with subsections (1) and (4) of this section, the commissioner shall promulgate administrative regulations by December 31, 1994, which require each insurance carrier, group self-insurer, and self-insured employer to certify to the commissioner the program or plan it has adopted to ensure compliance.

(b) In addition, the commissioner shall periodically have an independent audit conducted by a qualified independent person, firm, company, or other entity hired by the commissioner, in accordance with the personal service contract provisions contained in KRS 45A.690 to 45A.725, to ensure that the requirements of subsection (1) of this section are being met. The independent person, firm, company, or other entity selected by the commissioner to conduct the audit shall protect the confidentiality of any information it receives during the audit, shall divulge information received during the audit only to the commissioner, and shall use the information for no other purpose than the audit required by this paragraph.

(c) The commissioner shall promulgate administrative regulations governing medical provider utilization review activities conducted by an insurance carrier, group self-insurer, or self-insured employer pursuant to this chapter. ***The commissioner may contract with a third party to conduct utilization review appeals or reconsiderations. Employers or carriers shall pay the costs associated with utilization review appeals or reconsiderations under this paragraph.***

(d) Periodically, or upon request, the commissioner shall report to the Interim Joint Committee on Labor and Industry of the Legislative Research Commission or to the corresponding standing committees of the General Assembly, as appropriate, the degree of compliance or lack of compliance with the provisions of this section and make recommendations thereon.

(e) ***Except as set forth in subsection (5)(c) of this section,*** the cost of implementing and carrying out the requirements of this subsection shall be paid from funds collected pursuant to KRS 342.122.

(6) The commissioner may promulgate administrative regulations incorporating managed care or other concepts intended to reduce costs or to speed the delivery or payment of medical services to employees receiving medical and related benefits under this chapter.

(7) For purposes of this chapter, any medical provider shall charge only its customary fee for photocopying requested documents. However, in no event shall a photocopying fee of a medical provider or photocopying service exceed fifty cents ($0.50) per page. In addition, there shall be no charge for reviewing any records of a medical provider, during regular business hours, by any party who is authorized to review the records and who requests a review pursuant to this chapter.

(8) (a) The commissioner shall develop or adopt practice parameters or guidelines for clinical practice for use by medical providers under this chapter. The commissioner may adopt any parameters for clinical practice as developed and updated by the federal Agency for Health Care Policy Research, or the commissioner may adopt other parameters for clinical practice which are developed by qualified bodies, as determined by the commissioner, with periodic updating based on data collected during the application of the parameters.

(b) Any provider of medical services under this chapter who has followed the practice parameters or guidelines developed or adopted pursuant to this subsection shall be presumed to have met the appropriate legal standard of care in medical malpractice cases regardless of any unanticipated complication that may thereafter develop or be discovered.

Section 3. KRS 342.125 is amended to read as follows:

(1) Upon motion by any party or upon an arbitrator's or administrative law judge's own motion, an arbitrator or administrative law judge may reopen and review any award or order on any of the following grounds:

(a) Fraud;

(b) Newly-discovered evidence which could not have been discovered with the exercise of due diligence;

(c) Mistake; and

(d) Change of disability as shown by objective medical evidence of worsening or improvement of impairment due to a condition caused by the injury since the date of the award or order.

(2) No claim which has been previously dismissed or denied on the merits shall be reopened except upon the grounds set forth in this section.

(3) Except for reopening solely for ***the*** determination of the compensability of medical expenses, fraud, or conforming the award as set forth in ***subsection (1)(c)1. of Section 12 of this Act***[~~KRS 342.730(1)(c)2.~~], or for reducing a permanent total

disability award when an employee returns to work, ***or seeking temporary total disability benefits during the period of an award***, no claim shall be reopened more than ***six (6)***[~~four (4)~~] years following the date of the original award or order granting or denying benefits[~~, or within two (2) years of such award or order~~], and no party may file a motion to reopen within ***one (1) year***[~~two (2) years~~] of any previous motion to reopen by the same party.

(4) Reopening and review under this section shall be had upon notice to the parties and in the same manner as provided for an initial proceeding under this chapter. Upon reopening, the arbitrator or administrative law judge may end, diminish, or increase compensation previously awarded, within the maximum and minimum provided in this chapter, or change or revoke a previous order. The arbitrator or administrative law judge shall immediately send all parties a copy of the subsequent order or award. Reopening shall not affect the previous order or award as to any sums already paid thereunder, and any change in the amount of compensation shall be ordered only from the date of filing the motion to reopen. No employer shall suspend benefits during pendency of any reopening procedures except upon order of the arbitrator or administrative law judge.

(5) (a) Upon the application of the affected employee, and a showing of progression of his previously-diagnosed occupational pneumoconiosis resulting from exposure to coal dust and development of respiratory impairment due to that pneumoconiosis and two (2) additional years of employment in the Commonwealth wherein the employee was continuously exposed to the hazards of the disease, the arbitrator or administrative law judge may review an award or order for benefits attributable to coal-related pneumoconiosis under KRS 342.732. An application for review under this subsection shall be made within one (1) year of the date the employee knew or reasonably should have known that a progression of his disease and development or progression of respiratory impairment have occurred. Review under this subsection shall include a review of all evidence admitted in all prior proceedings.

(b) Benefits awarded as a result of a review under this subsection shall be reduced by the amount of retraining incentive benefits or income benefits previously awarded under KRS 342.732. The amount to be deducted shall be subtracted from the total amount awarded, and the remaining amount shall be divided by the number of weeks, for which the award was made, to arrive at the weekly benefit amount which shall be apportioned in accordance with the provisions of KRS 342.316.

(6) In a reopening or review proceeding where there has been additional permanent partial disability awarded, the increase shall not extend the original period, unless the combined prior disability and increased disability exceeds fifty percent (50%), but less than one hundred percent (100%), in which event the awarded period shall not exceed five hundred twenty (520) weeks, from commencement date of the original disability previously awarded. The law in effect on the date of the original injury controls the rights of the parties.

(7) Where an agreement has become an award by approval of the arbitrator or administrative law judge, and a reopening and review of that award is initiated, no statement contained in the agreement, whether as to jurisdiction, liability of the employer, nature and extent of disability, or as to any other matter, shall be considered by the arbitrator or the administrative law judge as an admission against the interests of any party. The parties may raise any issue upon reopening and review of this type of award which could have been considered upon an original application for benefits.

(8) The time limitation prescribed in this section ***is remedial and*** shall apply to all claims ***in which an award was entered or a settlement approved on or after December 12, 1996, except that subsection (3) of this section shall not be interpreted or construed to permit reopening of a claim on which the reopening period had expired on or before the effective date of this Act.***[~~irrespective of when they were incurred, or when the award was entered, or the settlement approved. However,~~] Claims decided prior to December 12, 1996, may be reopened within four (4) years of the award or order or within four (4) years of December 12, 1996, whichever is later, provided that the exceptions to reopening established in subsections (1) and (3) of this section shall apply to these claims as well.

Section 4. KRS 342.215 is amended to read as follows:

(1) The Workers' Compensation Board is hereby created and established. The board shall rule on appeals of decisions rendered by administrative law judges under this chapter. The board shall rule on an appeal of a decision of an administrative law judge no later than sixty (60) days following the date on which the last appeal brief was filed.

(2) The Workers' Compensation Board shall consist of three (3) members appointed by the Governor. Each member shall hold no other public office and shall devote his full time to the duties of his office.

(3) ***Of the members of the board appointed under this section, one (1) shall serve a term which shall expire on January 4, 2002; one (1) shall serve a term which shall expire on January 4, 2003; and one (1) shall serve a term which shall expire on January 4, 2004, as designated by the Governor at the time of appointment. Thereafter***, each term of a board member shall run for four (4) years from the date of expiration of the term for which the member's predecessor was appointed, except that a person appointed to fill a vacancy prior to the expiration of a term shall be appointed for the remainder of the term. The Governor shall not appoint a member of the board to fill the unexpired term of another board member, nor shall the Governor reappoint a member of the board who has been removed from his position prior to the expiration of his term. The members of the board shall have the qualifications required of appeals court judges, except for residence in a district, and shall receive the same salary and shall be subject to the same standards of conduct. The Governor shall designate a member of the board to serve as chairman. Any vacancy in the chairmanship shall be filled by

the Governor. The Governor may at any time remove any member for cause after furnishing him with a written copy of the charges against him and giving him a public hearing if he requests it.

(4) A decision concurred in by any two (2) of the three (3) members shall constitute a decision of the board.

(5) Members of the Workers' Compensation Board, arbitrators, and the administrative law judges shall be members of the Kentucky Employees Retirement System.

[~~(6) The Workers' Compensation Board is abolished effective on July 1, 2000, and as of midnight, June 30, 2000, the terms of all Workers' Compensation Board members shall end. Thereafter, appeals from the final orders of administrative law judges shall be directed to the Court of Appeals under the same standards set forth in this chapter for appeals to the Workers' Compensation Board.~~]

Section 5. KRS 342.265 is amended to read as follows:

(1) If the employee and employer and special fund or any of them reach an agreement conforming to the provisions of this chapter in regard to compensation, a memorandum of the agreement signed by the parties or their representatives shall be filed with the commissioner, and, if approved by an arbitrator or administrative law judge, shall be enforceable pursuant to KRS 342.305. Where all parties have not joined in the settlement agreement, it shall not be approved unless it is certified that the party not participating in the settlement has been served with a copy of the agreement not less than ten (10) days prior to submission of the agreement for approval. This provision shall not be construed to prevent the voluntary payment of compensation for the periods and in the amounts prescribed by this chapter, but nothing shall operate as a final settlement except a memorandum of agreement filed with the commissioner and approved by the arbitrator or administrative law judge. Upon claims settled after December 12, 1996, the special fund shall have the option of settling its liability for income benefits on the same terms as those reached between the employee and employer. Notice of the special fund exercise of the option granted in this subsection shall be made by letter of the director of the special fund mailed to the parties within ten (10) days of receipt by the director of a copy of the agreement.

(2) Settlement agreements concluded after ***the effective date of this Act***[~~March 31, 1997~~], providing for commuted lump-sum payment of future income benefits which would otherwise be payable in amounts greater than ***one hundred***[~~ten~~] dollars ***($100)***[~~($10)~~] per week shall not be approved unless there is reasonable assurance that the worker will have an adequate source of income during disability. This subsection is remedial and applies to all pending and future claims.

(3) Upon lump-sum settlement of future periodic payments, the discount rate used in the calculation of the settlement amount shall not exceed a reasonable amount fixed by the commissioner. For settlements approved after December 12, 1996, until December 31, 1997, the true discount rate shall be six percent (6%) compounded annually on each payment. Before January 1 of each year commencing in ***2001***[~~1998~~], the commissioner shall fix the discount rate to be utilized in the succeeding year based ***at one-half of one percent (0.5%) below***[~~upon~~] the interest rate paid upon ten (10) year United States Treasury Notes as of ***August***[~~July~~] 1 of the preceding year.

(4) If the parties have previously filed an agreement which has been approved by the administrative law judge or arbitrator, and compensation has been paid or is due in accordance therewith and the parties thereafter disagree, either party may invoke the provisions of KRS 342.125, which remedy shall be exclusive.

(5) An application for resolution of claim shall be held in abeyance during any period voluntary payments of income benefits are being made under any benefit sections of this chapter to the maximum which the employee's wages shall entitle unless it shall be shown that the prosecution of the employee's claim would be prejudiced by delay.

Section 6. KRS 342.267 is amended to read as follows:

(1) If an insurance carrier, self-insurance group, or self-insured employer providing workers' compensation coverage engages in claims settlement practices in violation of this chapter, or the provisions of KRS 304.12-230, the commissioner of the Department of Workers' Claims shall fine the insurance company, self-insurance group, or self-insured employer the sum of one thousand dollars ($1,000) to five thousand dollars ($5,000) for each violation and if they have a pattern of violations, the commissioner may revoke the certificate of self-insurance or request the commissioner of insurance to revoke the certificate of authority of the insurance carrier.

(2) In addition to the penalties provided in subsection (1) of this section, if an employee demonstrates in any claim before an arbitrator or administrative law judge that the insurance carrier, self-insurance group, or self-insured employer engaged in conduct proscribed in subsection (1) of this section, the arbitrator or administrative law judge shall impose penalties to be paid to the employee in the manner required in KRS 342.040, and an additional penalty equal to fifteen percent (15%) of past due income benefits, as well as impose costs under KRS 342.310.

(3) In addition to the penalties set forth in subsections (1) and (2) of this section, if an employee demonstrates that the carrier, self-insurance group, or self-insured employer delayed the delivery of necessary medical services or denied liability for necessary medical services without reasonable grounds, the arbitrator or administrative law judge shall impose a penalty to be paid to the employee not exceeding five thousand dollars ($5,000), as well as impose costs under KRS 342.310.

Section 7. KRS 342.270 is amended to read as follows:

(1) If the parties fail to reach an agreement in regard to compensation under this chapter, either party may make written application for resolution of claim. The application must be filed within two (2) years after the accident, or, in case of death, within two (2) years after the death, or within two (2) years after the cessation of voluntary payments, if any have been made. When the application is filed by the employee or during the pendency of that claim, he shall join all causes of action against the named employer which have accrued and which are known, or should reasonably be known, to him. Failure to join all accrued causes of action will result in such claims being barred under this chapter as waived by the employee.

(2) ~~[Except with respect to claims for benefits by reason of coal workers' pneumoconiosis,]~~The commissioner shall issue notice of the filing to all parties and shall promptly assign ***all applications for resolution of claims for workers who have returned to work***~~[the claim]~~ to an arbitrator***, and all claims for workers who have not returned to work to an administrative law judge***~~[for benefit review]~~. The arbitrator ***or administrative law judge*** shall facilitate the exchange of information pertinent to the claim pursuant to administrative regulations promulgated by the commissioner. Within forty-five (45) days of the date of issuance of the notice required by this section, the employer or carrier shall file notice of claim denial or acceptance, setting forth specifically those material matters which are admitted, those which are denied, and the basis of any denial of the claim.

(3) (a) The arbitrator ***or administrative law judge*** shall conduct proceedings as necessary to the resolution of the claim and may order the parties to appear for a benefit review conference, or submit medical reports and other information, or refer the employee for medical evaluation.

(b) If an arbitrator determines in his discretion that a pending claim presents factual issues best resolved through hearing before an administrative law judge, the arbitrator may enter an order transferring the claim to an administrative law judge for further proceedings.

(4) Except where compelling circumstances justify delay and except as provided in subsection (3)(b) of this section, the arbitrator shall render a written determination upon all matters at issue within ninety (90) days of the assignment of the claim. Through written order, the arbitrator may grant or deny any benefit afforded by this chapter, including interlocutory relief.

(5) Unless timely appeal is filed as set forth in KRS 342.275, the written determination of the arbitrator shall be a final order enforceable under the provisions of KRS 342.305.

(6) Benefit review conferences shall be held at a place designated by the commissioner, provided that the proceedings shall be held within the boundaries of the Commonwealth.

(7) ***In claims assigned to an administrative law judge provided in subsections (2) and (3)(b) of this section, the benefit review conference shall be conducted in accordance with KRS 342.275***~~[Within one hundred twenty (120) days of December 12, 1996, the commissioner shall promulgate administrative regulations establishing procedures for the resolution of claims, which shall include benefit review. The administrative regulations promulgated pursuant to the provisions of this subsection shall be effective on an emergency basis and be applied to all pending claims]~~.

Section 8. KRS 342.316 is amended to read as follows:

(1) (a) The employer liable for compensation for occupational disease shall be the employer in whose employment the employee was last exposed to the hazard of the occupational disease. During any period in which this section is applicable to a coal mine, an operator who acquired it or substantially all of its assets from a person who was its operator on and after January 1, 1973, shall be liable for, and secure the payment of, the benefits which would have been payable by the prior operator under this section with respect to miners previously employed in the mine if it had not been acquired by such later operator. At the same time, however, this subsection does not relieve the prior operator of any liability under this section. Also, it does not affect whatever rights the later operator might have against the prior operator; and

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later.

(2) The procedure with respect to the giving of notice and determination of claims in occupational disease cases and the compensation and medical benefits payable for disability or death due to the disease shall be the same as in cases of accidental injury or death under the general provisions of this chapter, except that notice of claim shall be given to the employer as soon as practicable after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, or a diagnosis of the disease is first communicated to him, whichever shall first occur.

(3) The procedure for filing occupational disease claims shall be as follows:

(a) The application for resolution of claim shall set forth the complete work history of the employee with a concise description of injurious exposure to a specific occupational disease, together with the name and addresses of the employer or employers with the approximate dates of employment. The application shall also include at least one (1) written medical report supporting his claim. This medical report shall be made on the basis of clinical or X-ray examination performed in accordance with accepted medical standards and shall contain full and complete statements of all examinations performed and the results thereof. The report shall be made by a duly-licensed physician. The commissioner shall promulgate administrative regulations which prescribe the format of the medical report required by this section and the manner in which the report shall be completed.

1. For coal-related occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination as well as spirometric tests when pulmonary dysfunction is alleged.
2. For other compensable occupational pneumoconiosis claims, each clinical examination shall include a chest X-ray examination and appropriate pulmonary function tests.

(b) To be admissible, medical evidence offered in any proceeding under this chapter for determining a claim for occupational pneumoconiosis resulting from exposure to coal dust shall comply with accepted medical standards as follows:

1. Chest X-rays shall be of acceptable quality with respect to exposure and development and shall be indelibly labeled with the date of the X-ray and the name and Social Security number of the claimant. Physicians' reports of X-ray interpretations shall: identify the claimant by name and Social Security number; include the date of the X-ray and the date of the report; classify the X-ray interpretation using the latest ILO Classification and be accompanied by a completed copy of the latest ILO Classification report.
2. Spirometric testing shall be conducted in accordance with the standards recommended in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and the 1978 ATS epidemiology standardization project with the exception that the predicted normal values for lung function shall not be adjusted based upon the race of the subject. The FVC or the FEV1 values shall represent the largest of such values obtained from three (3) acceptable forced expiratory volume maneuvers as corrected to BTPS (body temperature, ambient pressure and saturated with water vapor at these conditions) and the variance between the two (2) largest acceptable FVC values shall be either less than five percent (5%) of the largest FVC value or less than one hundred (100) milliliters, whichever is greater. The variance between the two (2) largest acceptable FEV1 values shall be either less than five percent (5%) of the largest FEV1 value or less than one hundred (100) milliliters, whichever is greater. Reports of spirometric testing shall include a description by the physician of the procedures utilized in conducting such spirometric testing and a copy of the spirometric chart and tracings from which spirometric values submitted as evidence were taken.
3. The commissioner shall promulgate administrative regulations pursuant to KRS Chapter 13A as necessary to effectuate the purposes of this section. The commissioner shall periodically review the applicability of the spirometric test values contained in the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association and may by administrative regulation substitute other spirometric test values which are found to be more closely representative of the normal pulmonary function of the coal mining population.
4. The procedure for determination of occupational disease claims shall be as follows:
    a. Immediately upon receipt of an application for resolution of claim, the commissioner shall notify the responsible employer and all other interested parties and shall furnish them with a full and complete copy of the application.

    b. The commissioner shall assign the claim to an ***administrative law judge***[~~arbitrator~~] and shall promptly refer the employee to such physician or medical facility as the commissioner may select for examination. The report from this examination shall be provided to all parties of record. The employee shall not be referred by the commissioner for examination within two (2) years following any prior referral for examination for the same disease.

    c. Within forty-five (45) days following the notice of filing an application for resolution of claim, the employer or carrier shall notify the commissioner and all parties of record of its acceptance or denial of the claim. A denial shall be in writing and shall state the specific basis for the denial.

    d. The ***administrative law judge***[~~arbitrator~~] shall conduct such proceedings as are necessary to resolve the claim and shall have authority to grant or deny any relief, including interlocutory relief, to order additional proof, to conduct a benefit review conference, or to take such other action as may be appropriate to resolve the claim.

    e. Unless a voluntary settlement is reached by the parties, the ***administrative law judge shall render the award, order, or decision within sixty (60) days following the final hearing unless an extension is mutually agreed to by all parties. The award, order, or decision shall address all contested issues and shall be enforceable under KRS 342.305***[~~arbitrator shall issue a written determination within ninety (90) days following assignment of the claim. The written determination shall address all contested issues and shall be enforceable under KRS 342.305~~].
5. The procedure for appeal from a determination of an ***administrative law judge***[~~arbitrator~~] shall be as set

forth in KRS *342.285*[~~342.275~~].

(4) (a) The right to compensation under this chapter resulting from an occupational disease shall be forever barred unless a claim is filed with the commissioner within three (3) years after the last injurious exposure to the occupational hazard or after the employee first experiences a distinct manifestation of an occupational disease in the form of symptoms reasonably sufficient to apprise him that he has contracted the disease, whichever shall last occur; and if death results from the occupational disease within that period, unless a claim therefor be filed with the commissioner within three (3) years after the death; but that notice of claim shall be deemed waived in case of disability or death where the employer, or his insurance carrier, voluntarily makes payment therefor, or if the incurrence of the disease or the death of the employee and its cause was known to the employer. However, the right to compensation for any occupational disease shall be forever barred, unless a claim is filed with the commissioner within five (5) years from the last injurious exposure to the occupational hazard, except that, in cases of radiation disease or asbestos-related disease, a claim must be filed within twenty (20) years from the last injurious exposure to the occupational hazard.

(b) Income benefits for the disease of pneumoconiosis resulting from exposure to coal dust or death therefrom shall not be payable unless the employee has been exposed to the hazards of such pneumoconiosis in the Commonwealth of Kentucky over a continuous period of not less than two (2) years during the ten (10) years immediately preceding the date of his last exposure to such hazard, or for any five (5) of the fifteen (15) years immediately preceding the date of such last exposure.

(5) The amount of compensation payable for disability due to occupational disease or for death from the disease, and the time and manner of its payment, shall be as provided for under the general provisions of the Workers' Compensation Act, but:

(a) In no event shall the payment exceed the amounts that were in effect at the time of the last injurious exposure;

(b) The time of the beginning of compensation payments shall be the date of the employee's last injurious exposure to the cause of the disease, or the date of actual disability, whichever is later; and

(c) In case of death where the employee has been awarded compensation or made timely claim within the period provided for in this section, and an employee has suffered continuous disability to the date of his death occurring at any time within twenty (20) years from the date of disability, his dependents, if any, shall be awarded compensation for his death as provided for under the general provisions of the Workers' Compensation Act and in this section, except as provided in KRS 342.750(6).

(6) If an autopsy has been performed, no testimony relative thereto shall be admitted unless the employer or his representative has available findings and reports of the pathologist or doctor who performed the autopsy examination.

(7) No compensation shall be payable for occupational disease if the employee at the time of entering the employment of the employer by whom compensation would otherwise be payable, falsely represented himself, in writing, as not having been previously disabled, laid off, or compensated in damages or otherwise, because of the occupational disease, or failed or omitted truthfully to state to the best of his knowledge, in answer to written inquiry made by the employer, the place, duration, and nature of previous employment, or, to the best of his knowledge, the previous state of his health.

(8) No compensation for death from occupational disease shall be payable to any person whose relationship to the deceased, which under the provisions of this chapter would give right to compensation, arose subsequent to the beginning of the first compensable disability, except only for after-born children of a marriage existing at the beginning of such disability.

(9) Whenever any claimant misconceives his remedy and files an application for adjustment of claim under the general provisions of this chapter and it is subsequently discovered, at any time before the final disposition of the cause, that the claim for injury, disability, or death which was the basis for his application should properly have been made under the provisions of this section, then the application so filed may be amended in form or substance, or both, to assert a claim for injury, disability, or death under the provisions of this section, and it shall be deemed to have been so filed as amended on the date of the original filing thereof, and compensation may be awarded that is warranted by the whole evidence pursuant to the provisions of this chapter. When amendment of this type is submitted, further or additional evidence may be heard when deemed necessary. Nothing this section contains shall be construed to be or permit a waiver of any of the provisions of this chapter with reference to notice of time for filing of a claim, but notice of filing a claim, if given or done, shall be deemed to be a notice of filing of a claim under provisions of this chapter, if given or done within the time required by this subsection.

(10) When an employee has an occupational disease that is covered by this chapter, the employer in whose employment he was last injuriously exposed to the hazard of the disease, and the employer's insurance carrier, if any, at the time of the exposure, shall alone be liable therefor, without right to contribution from any prior employer or insurance carrier, except as otherwise provided in this chapter.

(11) (a) Income benefits for coal-related occupational pneumoconiosis shall be paid fifty percent (50%) by the Kentucky coal workers' pneumoconiosis fund as established in KRS 342.1242 and fifty percent (50%) by the employer in whose employment the employee was last exposed to the hazard of that occupational disease.

(b) Compensation for all other occupational disease shall be paid by the employer in whose employment the employee was last exposed to the hazards of the occupational disease.

(12) A concluded claim for benefits by reason of contraction of coal workers' pneumoconiosis in the severance or processing of coal shall bar any subsequent claim for benefits by reason of contraction of coal workers' pneumoconiosis, unless there has occurred in the interim between the conclusion of the first claim and the filing of the second claim at least two (2) years of employment wherein the employee was continuously exposed to the hazards of the disease in the Commonwealth.

Section 9. KRS 342.320 is amended to read as follows:

(1) All fees of attorneys and physicians, and all charges of hospitals under this chapter, shall be subject to the approval of an administrative law judge or arbitrator pursuant to the statutes and administrative regulations.

(2) ***In an original claim,*** attorney's fees for services under this chapter on behalf of an employee shall be subject to the following maximum limits:

(a) Twenty percent (20%) of the ***first twenty-five thousand dollars ($25,000) of the*** award***, fifteen percent (15%) of the next ten thousand dollars ($10,000), and five percent (5%) of the remainder of the award,*** not to exceed ***a maximum fee of twelve thousand dollars ($12,000)***[~~two thousand dollars ($2,000) for services performed up to and including the date of a written determination by the arbitrator~~]. This fee shall be paid by the employee from the proceeds of the award or settlement.

(b)[~~ Upon an appeal by an employee from a written determination of an arbitrator or an award or order of an administrative law judge, a fee to be fixed by the administrative law judge upon consideration of the extent, quality, and complexity of services not to exceed twenty percent (20%) of the first twenty-five thousand dollars ($25,000) of any increased income benefits awarded, ten percent (10%) of the next fifteen thousand dollars ($15,000) of increased income benefits, and five percent (5%) of the remainder of the additional income benefits awarded and not to exceed in all ten thousand dollars ($10,000). This fee shall be paid by the employee from the proceeds of the award or settlement and shall be in addition to the fee, if any, awarded under paragraph (a) of this subsection.~~

~~(c)~~] Upon an appeal by an employer or carrier from a written determination of an arbitrator or an award or order of an administrative law judge, if the employer or carrier does not prevail upon appeal, the administrative law judge shall ***assess***[~~fix~~] an attorney's fee to be paid by the employer or carrier for the employee's attorney upon consideration of the extent, quality, and complexity of the services rendered not to exceed five thousand dollars ($5,000) per level of appeal. This attorney's fee shall be in addition to any fee awarded under ***paragraph (a)***[~~paragraphs (a) and (b)~~] of this subsection. ***However, for legal representation before an administrative law judge, the fee assessed under this paragraph shall be considered by the administrative law judge in fixing the amount of the fee to be paid under paragraph (a) of this subsection.***

(c)[~~(d)~~]Attorney-client employment contracts entered into and signed ***after the effective date of this Act***[~~prior to December 12, 1996, for injuries or date of last exposure occurring prior to December 12, 1996~~], shall[~~ not~~] be subject to the conditions of paragraphs (a) ***and***[~~,~~] (b)[~~, and (c)~~] of this subsection[~~, and the law existing at the date of the injury or last exposure to the hazards of an occupational disease shall apply~~].

(3) In approving an allowance of attorney's fees, the administrative law judge or arbitrator shall consider the extent, complexity, and quality of services rendered, and in the case of death, the Remarriage Tables of the Dutch Royal Insurance Institute. An attorney's fee may be denied or reduced upon proof of solicitation by the attorney. However, this provision shall not be construed to preclude advertising in conformity with standards prescribed by the Kentucky Supreme Court.[~~ The date of injury or last exposure shall control the applicable maximum attorney's fee.~~]

(4) No attorney's fee in any case involving benefits under this chapter shall be paid until the fee is approved by the arbitrator or administrative law judge, and any contract for the payment of attorney's fees otherwise than as provided in this section shall be void. The motion for approval of an attorney's fee shall be submitted within thirty (30) days following finality of the ***claim***[~~written determination of an arbitrator or last appealable order of an administrative law judge~~]. Except when the attorney's fee is to be paid by the employer or carrier, the attorney's fee shall be paid in one (1) of the following ways:

(a) The employee may pay the attorney's fee out of his personal funds or from the proceeds of a lump-sum settlement; or

(b) The arbitrator or administrative law judge, upon request of the employee, may order the payment of the attorney's fee in a lump sum directly to the attorney of record and deduct the attorney's fee from the weekly benefits payable to the employee in equal installments over the duration of the award or until the attorney's fee has been paid, commuting sufficient sums to pay the fee.

(5) At the commencement of the attorney-client relationship, the attorney shall explain to the employee the methods by which this section provides for the payment of the attorney's fee, and the employee shall select the method in which his attorney's fee is to be paid. His selection and statement that he fully understands the method to be used shall be submitted by his attorney, on a notarized form signed by the employee, at the time the motion for approval of the attorney's fee is submitted. The commissioner shall develop the format and content of the form to be used pursuant to this section. The form to be used shall list on its face all options permitted in this section for the payment of an attorney's fees and contain

an explanation in nontechnical language of each method.

(6) The General Assembly declares that by the enactment of KRS 342.316(3), it is the legislative intent to encourage settlement and prompt administrative handling of those claims and thereby reduce expenses to claimants for compensation under the provisions of KRS 342.316, and the administrative law judge and arbitrator shall give due regard to this legislative intent in the handling of uncontested claims and the allowance of attorney's fees therein.

(7) In a claim that has been reopened pursuant to the provisions of this chapter, an attorney's fee may be awarded by the arbitrator or administrative law judge subject to the limits set forth in subsection (2) of this section. In awarding the attorney's fee, the arbitrator or administrative law judge shall consider the factors set forth in subsection (3) of this section. If no additional amount is recovered upon reopening, no attorney's fee shall be awarded. No attorney's fee shall be allowed or approved exceeding the amounts provided in subsection (2)***(a)***~~[(b)]~~ of this section applicable to any additional amount recovered.

(8) Attorney's fees for representing employers in proceedings under this chapter pursuant to contract with the employer shall be subject to approval of the administrative law judge or arbitrator in the same manner as prescribed for attorney representation of employees. Employer attorney's fees are subject to the ***limitation of twelve thousand dollars ($12,000)***~~[same limitations as to]~~ maximum fees~~[at each level]~~ except that fees for~~[representation before administrative law judges shall not exceed ten thousand dollars ($10,000) and fees for representation before arbitrators shall not exceed two thousand dollars ($2,000). Fees for]~~ representing employers shall not be dependent upon the result achieved. ***Employer attorney's fees may be paid on a periodic basis while a claim is adjudicated and the payments need not be approved until the claims resolution process is completed.*** Fees for legal services in presenting a claim for reimbursement to the director of the Kentucky coal workers' pneumoconiosis fund shall not exceed one thousand dollars ($1,000). All such approved fees shall be paid by the employer and in no event shall exceed the amount the employer agreed by contract to pay.

~~[(9) Notwithstanding any provisions of law to the contrary, the provisions of this chapter shall not be construed or interpreted to prohibit nonattorney representation of injured workers covered by this chapter.]~~

Section 10. KRS 342.710 is amended to read as follows:

(1) One of the primary purposes of this chapter shall be restoration of the injured employee to gainful employment, and preference shall be given to returning the employee to employment with the same employer or to the same or similar employment.

(2) The commissioner shall continuously study the problems of rehabilitation, both physical and vocational, and shall investigate and maintain a directory of all rehabilitation facilities, both private and public.

(3) An employee who has suffered an injury covered by this chapter shall be entitled to prompt medical rehabilitation services for whatever period of time is necessary to accomplish physical rehabilitation goals which are feasible, practical, and justifiable. When as a result of the injury he is unable to perform work for which he has previous training or experience, he shall be entitled to such vocational rehabilitation services, including retraining and job placement, as may be reasonably necessary to restore him to suitable employment. In all such instances, the arbitrator or administrative law judge shall inquire whether such services have been voluntarily offered and accepted. The arbitrator or administrative law judge on his own motion, or upon application of any party or carrier, after affording the parties an opportunity to be heard, may refer the employee to a qualified physician or facility for evaluation of the practicability of, need for, and kind of service, treatment, or training necessary and appropriate to render him fit for a remunerative occupation. Upon receipt of such report, the arbitrator or administrative law judge may order that the services and treatment recommended in the report, or such other rehabilitation treatment or service likely to return the employee to suitable, gainful employment, be provided at the expense of the employer or his insurance carrier. Vocational rehabilitation training, treatment, or service shall not extend for a period of more than fifty-two (52) weeks, except in unusual cases when by special order of the arbitrator or administrative law judge, after hearing and upon a finding, determined by sound medical evidence which indicates such further rehabilitation is feasible, practical, and justifiable, the period may be extended for additional periods***, except that enhanced income benefits for permanently partially disabled workers otherwise payable under Section 11 of this Act shall only be paid during fifty-two (52) weeks of vocational rehabilitation training***.

(4) Where rehabilitation requires residence at or near the facility or institution, away from the employee's customary residence, reasonable cost of his board, lodging, or travel shall be paid for by the employer or his insurance carrier.

(5) Refusal to accept rehabilitation pursuant to an order of an arbitrator or administrative law judge shall result in a fifty percent (50%) loss of compensation for each week of the period of refusal.

(6) The commissioner shall cooperate on a reciprocal basis with the Department of Vocational Rehabilitation and the Department for Employment Services of the Kentucky Cabinet for Workforce Development. In the event medical treatment, medical rehabilitation services, or vocational rehabilitation services are purchased for an injured employee by the Department of Vocational Rehabilitation or Department for Employment Services following the refusal by the employer or his insurance carrier to provide such services, the arbitrator or administrative law judge, after affording the parties an opportunity to be heard, may order reimbursement of the cost of such treatment or services by the employer or his insurance carrier as apportioned in the award. This section shall not be interpreted to require mandatory evaluation of

employees based on length of disability. Any administrative regulations promulgated pursuant to this section that require mandatory referral to a qualified rehabilitation counselor shall expire on April 4, 1994.

(7) An employee who ***has completed a program of retraining and has accepted a bona fide offer of employment, at a location more than fifty (50) miles from the employee's usual residence, in the field for which the employee has been trained may elect to be paid from the balance of the award a lump sum of three thousand dollars ($3,000) to be paid without discount but deducted in equal amounts from weekly payments otherwise due***~~[is enrolled and participating in a program of rehabilitation training pursuant to this section may elect to receive an acceleration of benefits as awarded under KRS 342.730. Such acceleration shall be available to the employee during the period of retraining, but in no event shall be paid in a weekly amount greater than sixty-six and two-thirds percent (66-2/3%) of the average weekly wage upon which the award is based, not to exceed one hundred percent (100%) of the state average weekly wage. Upon successful completion of the rehabilitation program, the total of all accelerated benefits paid shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis shall be discounted at the rate set forth in KRS 342.265 and then deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. Such remaining benefits, after the discount, shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. In no event shall this subsection be construed as requiring payment of benefits in excess of the total of those benefits which would otherwise be payable]~~ under the award.

Section 11. KRS 342.715 is amended to read as follows:

(1) Notwithstanding the provisions of KRS 342.730, during the period the employee is eligible for permanent~~[total]~~ disability benefits and is actively participating ***as a full-time student*** in a vocational~~[or physical]~~ rehabilitation program, pursuant to an order of the arbitrator or administrative law judge, the employee's benefits shall be calculated ***as follows:***

(a) For partial disability, the employee shall receive the greater of the permanent partial disability award or fifty percent (50%) of seventy-five percent (75%) of the state average weekly wage; or

(b) For total disability, the employee shall receive eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state average weekly wage.

(2) Income benefits received under subsection (1) of this section shall be credited on a week-by-week basis against the employee's award.

(3) An employee with a partial disability award under Section 12 of this Act who is participating as a full-time student in a rehabilitation program may elect to accelerate payment of an additional sixteen and two-thirds percent (16-2/3%) of his average weekly wage so that during rehabilitative training, partial disability payments equal sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage not to exceed seventy-five percent (75%) of the state average weekly wage. The additional sixteen and two-thirds percent (16-2/3%) shall be deducted on a dollar-for-dollar basis, without discount, from weekly benefits otherwise due to the employee following the period of rehabilitative training. The dollar-for-dollar credit shall apply only to the additional sixteen and two-thirds percent (16-2/3%) received under this subsection and does not apply to benefits received under subsection (1) of this section. The sum total of payments remaining due under the award, if any, shall then be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee. If a program of rehabilitation training is terminated by the employee prior to completion, all sums paid on an accelerated basis under this subsection shall be discounted at the rate set forth in Section 5 of this Act and deducted on a dollar-for-dollar basis from weekly benefits otherwise due the employee subject to the maximum amount of the award. The sum total remaining on the award shall be divided by the number of weeks remaining payable under the award, and that amount shall be the weekly benefit due the employee~~[by taking eighty percent (80%) of his average weekly wage, but not more than one hundred percent (100%) of the state's average weekly wage, times the permanent disability rating as determined in this chapter]~~.

Section 12. KRS 342.730 is amended to read as follows:

(1) Except as provided in KRS 342.732, income benefits for disability shall be paid to the employee as follows:

(a) For temporary or permanent total disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined in KRS 342.740 during that disability. Nonwork-related impairment and conditions compensable under KRS 342.732 and hearing loss covered in KRS 342.7305 shall not be considered in determining whether the employee is totally disabled for purposes of this subsection.

(b) For permanent partial disability, sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740, multiplied by the permanent impairment rating caused by the injury or occupational disease as determined by "Guides to the Evaluation of Permanent Impairment," American Medical Association, latest edition available, times the factor set forth in the table that follows:

AMA Impairment	Factor
0 to 15%~~[0 to 5%]~~	***1.00***~~[0.75]~~
16 to 25%~~[6 to 10%]~~	***1.15***~~[1.00]~~
26 to 30%~~[11 to 15%]~~	***1.35***~~[1.25]~~
31 to 35%~~[16 to 20%]~~	***1.50***~~[1.50]~~
36% and above~~[21 to 25%]~~	***1.70***~~[1.75]~~
~~[26 to 30%~~	~~2.00~~
~~31 to 35%~~	~~2.25~~
~~36% and above~~	~~2.50]~~

Any temporary total disability period within the maximum period for permanent, partial disability benefits shall extend the maximum period but shall not make payable a weekly benefit exceeding that determined in subsection (1)(a) of this section. Notwithstanding any section of this chapter***, except as set forth in Section 11 of this Act***~~[to the contrary]~~, there shall be no minimum weekly income benefit for permanent partial disability and medical benefits shall be paid for the duration of the disability.

(c) 1. ***a.*** ***If following an injury, an employee returns to the type of work at the same or greater wage as earned at the time of injury, the benefit for permanent partial disability shall be determined under paragraph (b) of this subsection. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly income benefits for permanent partial disability during the period of cessation shall be two (2) times the amount otherwise payable under paragraph (b) of this subsection, unless the employee does not retain the physical capacity to return to the type of work performed at the time of injury in which event the benefit shall be three (3) times the amount otherwise payable under paragraph (b) of this subsection;***

b. ***If following an injury, an employee does not return to work at the same or greater wage than earned at the time of the injury, the benefit for permanent partial disability shall be two (2) times the amount otherwise payable in paragraph (b) of this subsection. This provision shall not be construed so as to extend the duration of payments.***

c. If, due to an injury, an employee does not retain the physical capacity to return to the type of work that the employee performed at the time of injury, the benefit for permanent partial disability shall be ***three (3)***~~[one and one-half (1-1/2)]~~ times the amount otherwise determined under paragraph (b) of this subsection, but this provision shall not be construed so as to extend the duration of payments.

2. ***Recognizing that limited education and advancing age impact an employee's post-injury earning capacity, an education and age factor, when applicable, shall be added to the income benefit multiplier set forth in paragraph (c)1.c. of this subsection. If at the time of injury, the employee had less than eight (8) years of formal education, the multiplier shall be increased by 0.4; if the employee had less than twelve (12) years of education or a high school General Equivalency Diploma, the multiplier shall be increased by 0.2; if the employee was age sixty (60) or older, the multiplier shall be increased by 0.6; if the employee was age fifty-five (55) or older, the multiplier shall be increased by 0.4; and if the employee was age fifty (50) or older, the multiplier shall be increased by 0.2***~~[If an employee returns to work at a weekly wage equal to or greater than the average weekly wage at the time of injury, the weekly benefit for permanent partial disability otherwise payable under paragraph (b) of this subsection shall be reduced by one-half (1/2) for each week during which that employment is sustained. During any period of cessation of that employment, temporary or permanent, for any reason, with or without cause, payment of weekly benefits for permanent partial disability during the period of cessation shall be restored to the rate prescribed in paragraph (b) of this subsection]~~.

3. Notwithstanding the provisions of KRS 342.125, a claim may be reopened at any time during the period of permanent partial disability in order to conform the award payments with the requirements of ***paragraph (c)1.a. and b. of this subsection***~~[subparagraph 2. of this paragraph]~~.

(d) For permanent partial disability, if an employee has a permanent ***impairment***~~[disability]~~ rating of ***less than twenty-six percent (26%)***~~[fifty percent (50%) or less]~~ as a result of a work-related injury, the compensable permanent partial disability period shall be four hundred twenty-five (425) weeks, and if the permanent ***impairment***~~[disability]~~ rating is greater than ***twenty-six percent (26%)***~~[fifty percent (50%)]~~, the compensable permanent partial disability period shall be five hundred twenty (520) weeks~~[from the date the impairment or disability exceeding fifty percent (50%) arises]~~. Benefits payable for permanent partial disability shall not exceed~~[~~

~~ninety-nine percent (99%) of~~] sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined under KRS 342.740 and shall not exceed seventy-five percent (75%) of the state average weekly wage[~~, except for benefits payable pursuant to paragraph (c)1. of this subsection, which shall not exceed one hundred percent (100%) of the state average weekly wage, nor shall benefits for permanent partial disability be payable for a period exceeding five hundred twenty (520) weeks, notwithstanding that multiplication of impairment times the factor set forth in paragraph (b) of this subsection would yield a greater percentage of disability~~].

(e) For permanent partial disability, impairment for nonwork-related disabilities, conditions previously compensated under this chapter, conditions covered by KRS 342.732, and hearing loss covered in KRS 342.7305 shall not be considered in determining the extent of disability or duration of benefits under this chapter.

(2) The period of any income benefits payable under this section on account of any injury shall be reduced by the period of income benefits paid or payable under this chapter on account of a prior injury if income benefits in both cases are for disability of the same member or function, or different parts of the same member or function, and the income benefits payable on account of the subsequent disability in whole or in part would duplicate the income benefits payable on account of the pre-existing disability.

(3) Subject to the limitations contained in subsection (4) of this section, when an employee, who has sustained disability compensable under this chapter, and who has filed, or could have timely filed, a valid claim in his lifetime, dies from causes other than the injury before the expiration of the compensable period specified, portions of the income benefits specified and unpaid at the individual's death, whether or not accrued or due at his death, shall be paid, under an award made before or after the death, for the period specified in this section, to and for the benefit of the persons within the classes at the time of death and in the proportions and upon the conditions specified in this section and in the order named:

(a) To the widow or widower, if there is no child under the age of eighteen (18) or incapable of self-support, benefits at fifty percent (50%) of the rate specified in the award; or

(b) If there are both a widow or widower and such a child or children, to the widow or widower, forty-five percent (45%) of the benefits specified in the award, or forty percent (40%) of those benefits if such a child or children are not living with the widow or widower; and, in addition thereto, fifteen percent (15%) of the benefits specified in the award to each child. Where there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided among all the children, share and share alike; or

(c) If there is no widow or widower but such a child or children, then to the child or children, fifty percent (50%) of the benefits specified in the award to one (1) child, and fifteen percent (15%) of those benefits to a second child, to be shared equally. If there are more than two (2) such children, the indemnity benefits payable on account of two (2) children shall be divided equally among all the children; or

(d) If there is no survivor in the above classes, then the parent or parents wholly or partly actually dependent for support upon the decedent, or to other wholly or partly actually dependent relatives listed in paragraph (g) of subsection (1) of KRS 342.750, or to both, in proportions that the commissioner provides by administrative regulation.

(e) To the widow or widower upon remarriage, up to two (2) years, benefits as specified in the award and proportioned under paragraphs (a) or (b) of this subsection, if the proportioned benefits remain unpaid, to be paid in a lump sum.

(4) All income benefits payable pursuant to this chapter shall ***be reduced by twenty-five percent (25%)***[~~terminate~~] as of the date upon which the employee qualifies for normal old-age Social Security retirement benefits under the United States Social Security Act, 42 U.S.C. secs. 301 to 1397f***; by an additional twenty-five percent (25%) of the original income benefit one (1) year thereafter; by an additional twenty-five percent (25%) of the original benefit at the beginning of the third year, and shall terminate entirely at the end of the employee's third year of receipt of old-age Social Security retirement benefits, except that the employee shall be paid full income benefits as set forth in the award for a period of***[~~, or~~] two (2) years after the employee's injury or last exposure, ***and thereafter if the employee qualifies for normal old-age Social Security retirement, benefits shall be reduced at the rate of twenty-five percent (25%) per year over a period of three (3) years and terminate entirely at the end of the third year***[~~whichever last occurs~~]. In like manner all income benefits payable pursuant to this chapter to spouses and dependents shall terminate when such spouses and dependents qualify for benefits under the United States Social Security Act by reason of the fact that the worker upon whose earnings entitlement is based would have qualified for normal old-age Social Security retirement benefits.

(5) All income benefits pursuant to this chapter otherwise payable for temporary total and permanent total disability shall be offset by unemployment insurance benefits paid for unemployment during the period of temporary total or permanent total disability.

(6) All income benefits otherwise payable pursuant to this chapter shall be offset by payments made under an exclusively employer-funded disability or sickness and accident plan which extends income benefits for the same disability covered by this chapter, except where the employer-funded plan contains an internal offset provision for workers' compensation benefits which is inconsistent with this provision.

(7) If an employee receiving a permanent total disability award returns to work, that employee shall notify the employer, payment obligor, insurance carrier, or special fund as applicable.

Section 13. KRS 342.732 is amended to read as follows:

(1) Notwithstanding any other provision of this chapter, income benefits and retraining incentive benefits for occupational pneumoconiosis resulting from exposure to coal dust in the severance or processing of coal shall be paid as follows:

(a) If an employee has a radiographic classification of category ***1/0***~~[1/1 or 1/2]~~, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by report of X-ray which conforms to the standards for X-rays contained in subsection (3) of KRS 342.316, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, ***or category 1/1 or 1/2 pneumoconiosis and respiratory impairment evidenced by spirometric test values of eighty percent (80%) or more,*** the employee shall be awarded a one (1) time only retraining incentive benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage as determined by KRS 342.740 but not more than seventy-five percent (75%) of the state average weekly wage, payable semimonthly for a period not to exceed one hundred four (104) weeks. These benefits shall be paid only while the employee is enrolled and actively and successfully participating as a full-time student taking twenty-four (24) or more instruction hours per week in a bona fide training or education program approved under administrative regulations to be promulgated by the commissioner. The employer shall also pay, directly to the institution conducting the training or education program, instruction, tuition, and material costs not to exceed five thousand dollars ($5,000). The benefit shall not be paid for a period in which the employee ceases to participate in the program. In no event shall the benefit be paid to the employee while the employee is working in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a). The period of one hundred four (104) weeks during which this benefit is payable shall begin no later than the one-hundred-eightieth day after the order awarding the benefit becomes final. If an employee completes an approved program of training in less than one hundred four (104) weeks and that employee has accepted a bona fide offer of employment at a location more than fifty (50) miles from the employee's usual residence in the field for which the employee has been trained, the employee shall be paid in a lump sum for relocation the lesser of the sum of three thousand dollars ($3,000) or the amount remaining in unpaid weekly training benefits as provided by this section.

(b) ***If an employee has a radiographic classification of category 1/0, based on the latest ILO International Classification of Radiographics, resulting from exposure to coal dust, which is validated by a report of X-ray which conforms to the standards for X-rays contained in subsection (3) of Section 8 of this Act, and respiratory impairment resulting from exposure to coal-mine dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or category 1/1 or 1/2 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more of the predicted normal values, there shall be an irrebuttable presumption that the employee has a disability rating of twenty-five percent (25%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance or processing of coal as defined in subsection (23)(a) of Section 1 of this Act.***

(c) If it is determined that an employee has a radiographic classification of category 1/1 or 1/2, based on the latest ILO International Classification of Radiographics and respiratory impairment resulting from exposure to coal dust as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association, or category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, ***or category 3/2 or 3/3 coal workers' pneumoconiosis and spirometric test values of eighty percent (80%) or more,*** there shall be an irrebuttable presumption that the employee has ***a***~~[an occupational]~~ disability rating of fifty percent (50%) resulting from exposure to coal dust, and the employee shall be awarded an income benefit which shall be an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage ***but not to exceed seventy-five percent (75%) of the state average weekly wage as determined in KRS 342.740*** multiplied by the disability rating of fifty percent (50%)~~[but not to exceed seventy-five percent (75%) of the state average weekly wage as~~

~~determined by KRS 342.740~~]. The award shall be payable for a period not to exceed four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(d)[~~(c)~~]If it is determined that an employee has a radiographic classification of category 2/1, 2/2, or 2/3 coal workers' pneumoconiosis, based on the latest ILO International Classification of Radiographics, and respiratory impairment as evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the chapter on the respiratory system of the latest edition available of the "Guides to the Evaluation of Permanent Impairment" published by the American Medical Association or category 3/2 or 3/3 pneumoconiosis and respiratory impairment evidenced by spirometric test values of fifty-five percent (55%) or more but less than eighty percent (80%) of the predicted normal values, there shall be an irrebuttable presumption that the employee ***has a***[~~is~~] seventy-five percent (75%) ***disability rating***[~~disabled~~] resulting from exposure to coal dust and the employee shall be awarded income benefits which shall be equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage ***but not to exceed seventy-five percent (75%) of the state average weekly wage as determined by KRS 342.740*** multiplied by the disability rating of seventy-five percent (75%)[~~ but not to exceed seventy-five percent (75%) of the state average weekly wage and not less than twenty percent (20%) of the state average weekly wage as determined by KRS 342.740~~]. The award shall be payable for a period not to exceed five hundred twenty (520) weeks. Income benefits awarded under this paragraph shall be payable to the employee during the disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(e)[~~(d)~~]If it is determined that an employee has radiographic classification of 3/2 or 3/3 occupational pneumoconiosis based on the latest ILO International Classification of Radiographs, and respiratory impairment evidenced by spirometric test values of less than fifty-five percent (55%) of the predicted normal values contained in the latest edition of the "Guides to the Evaluation of Permanent Impairment" of the American Medical Association, or progressive massive fibrosis, based on the latest ILO International Classification of Radiographics, there shall be an irrebuttable presumption that the employee is totally disabled resulting from exposure to coal dust, and the employee shall be awarded income benefits equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not more than one hundred percent (100%) of the state average weekly wage and not less than twenty percent (20%) of the average weekly wage of the state as determined by KRS 342.740. Income benefits awarded under this paragraph shall be payable to the employee during such disability, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in KRS 342.0011(23)(a).

(2) The presence of respiratory impairment resulting from exposure to coal dust shall be established by using the largest forced vital capacity (FVC) value or the largest forced expiratory volume in one second (FEV1) value determined from the totality of all such spirometric testing performed in compliance with accepted medical standards.

(3) When valid spirometric tests are not provided and a physician certifies to the administrative law judge or arbitrator that spirometric testing is not medically indicated because of the permanent physical condition of the employee, the administrative law judge or arbitrator shall make his decision on the basis of evidence admitted which establishes the existence of a diagnosis of occupational pneumoconiosis and respiratory impairment due to the occupational pneumoconiosis. The evidence submitted by the employee shall include one (1) or more arterial blood gas studies performed in accordance with accepted medical standards. Income benefits shall not be awarded in the absence of valid spirometric tests if the claimant's PO2 arterial blood gas value is equal to or higher than one (1) standard deviation from the normal value obtained by the formula (103.5 - 0.42X), where X equals the claimant's age at the time of the arterial blood gas study.

(4) ***If a miner has fifteen (15) years or more of employment in coal mines or processing facilities as shown by Social Security records and has developed coal workers' pneumoconiosis and respiratory impairment criteria established in this section, it shall be rebuttably presumed that coal dust exposure was a significant contributing factor in the development of respiratory impairment.***

(5) A miner who is age fifty-five (55) or older on the date of the last occupational exposure to coal dust who is otherwise entitled to an award of retraining incentive benefits provided in subsection (1)(a) of this section may elect to be awarded in lieu thereof an amount equal to sixty-six and two-thirds percent (66-2/3%) of the employee's average weekly wage but not to exceed seventy-five percent (75%) of the state average weekly wage as determined in KRS 342.740 multiplied by the disability rating of twenty-five percent (25%). The award shall be payable for a period of four hundred twenty-five (425) weeks, but in no event shall benefits be paid under this subsection while the employee continues to work in the mining industry in the severance and processing of coal as defined in subsection (23)(a) of Section 1 of this Act.

(6) In no event shall income benefits awarded under this section be stacked or added to income benefits awarded under KRS 342.730 to extend the period of disability.

(7) Notwithstanding the provisions of Section 3 of this Act, all claims for benefits under this section, which were filed for

the last injurious occupational exposure to coal dust occurring between December 12, 1996, and the effective date of this Act, shall be reconsidered under administrative regulations promulgated by the commissioner and may be reopened upon the existing record and benefits shall be awarded thereon as if the entitlement standards established by the amendments to this section were effective at the time of the last exposure. Any benefits previously granted by an award or settlement shall be credited against the reconsidered award or settlement. All additional benefits shall be paid from the Kentucky Coal Workers' Pneumoconiosis Fund, the provisions of KRS 342.1242 notwithstanding. Claims which were dismissed upon a finding that the miner had not proven development of coal workers' pneumoconiosis and claims which were dismissed for reasons other than failure to meet medical criteria shall not be reopened or reconsidered under this subsection.

(8) The claim of any miner last exposed to the occupational hazards of coal workers' pneumoconiosis between December 12, 1996, and the effective date of this Act, shall nonetheless be governed by the provisions of this section as amended on the effective date of this Act with any additional benefits awarded to the miner under this section to be paid from the Kentucky coal workers' pneumoconiosis fund, the provisions of KRS 342.1242 notwithstanding.

(9) Notwithstanding the provisions of Section 8(4)(a) of this Act, the claim of any miner last exposed between December 12, 1996, and December 11, 1997, may be filed with the commissioner within four (4) years after the last exposure to the occupational hazard or after the employee first experiences a distinct manifestation of the occupational disease. The right to compensation shall be forever barred, however, unless a claim is filed within five (5) years from the last injurious exposure to the occupational hazard. Any additional benefits awarded to the miner under this section shall to be paid by the Kentucky Coal Workers' Fund, the provisions of KRS 342.1242 notwithstanding.

Section 14. KRS 342.750 is amended to read as follows:

If the injury causes death, income benefits shall be payable in the amount and to or for the benefit of the persons following, subject to the maximum limits specified in subsections (3) and (4) of this section:

(1) (a) If there is a widow or widower and no children of the deceased, to such widow or widower 50 percent of the average weekly wage of the deceased, during widowhood or widowerhood.

(b) To the widow or widower, if there is a child or children living with the widow or widower, 45 percent of the average weekly wage of the deceased, or 40 percent, if such child is not or such children are not living with a widow or widower, and in addition thereto, 15 percent for each child. Where there are more than two (2) such children, the indemnity benefits payable on account of such children shall be divided among such children, share and share alike.

(c) Two (2) years' indemnity benefits in one (1) lump sum shall be payable to a widow or widower upon remarriage.

(d) To the children, if there is no widow or widower, 50 percent of such wage for one (1) child, and 15 percent for each additional child, divided among such children, share and share alike.

(e) The income benefits payable on account of any child under this section shall cease when he dies, marries, or reaches the age of eighteen (18), or when a child over such age ceases to be physically or mentally incapable of self-support, or if actually dependent ceases to be actually dependent, or, if enrolled as a full-time student in any accredited educational institution, ceases to be so enrolled or reaches the age of 22. A child who originally qualified as a dependent by virtue of being less than 18 years of age may, upon reaching age 18, continue to qualify if he satisfies the tests of being physically or mentally incapable of self-support, actual dependency, or enrollment in an educational institution.

(f) To each parent, if actually dependent, 25 percent.

(g) To the brothers, sisters, grandparents, and grandchildren, if actually dependent, 25 percent to each such dependent. If there should be more than one (1) of such dependents, the total income benefits payable on account of such dependents shall be divided share and share alike.

(h) The income benefits of each beneficiary under paragraphs (f) and (g) above shall be paid until he, if a parent or grandparent, dies, marries, or ceases to be actually dependent, or, if a brother, sister, or grandchild, dies, marries, or reaches the age of eighteen (18) or if over that age ceases to be physically or mentally incapable of self-support, or ceases to be actually dependent.

(i) A person ceases to be actually dependent when his income from all sources exclusive of workers' compensation income benefits is such that, if it had existed at the time as of which the original determination of actual dependency was made, it would not have supported a finding of dependency. In any event, if the present annual income of an actual dependent person including workers' compensation income benefits at any time exceeds the total annual support received by the person from the deceased employee, the workers' compensation benefits shall be reduced so that the total annual income is no greater than such amount of annual support received from the deceased employee. In all cases, a person found to be actually dependent shall be presumed to be no longer actually dependent three (3) years after each time as of which the person was found to be actually dependent. This presumption may be overcome by proof of continued actual dependency as defined in this subsection, but full payments shall not be suspended during the pendency of any proceeding to determine dependency.

(2) Upon the cessation of income benefits under this section to or on account of any person, the income benefits of the remaining persons entitled to income benefits for the unexpired part of the period during which their income benefits are payable shall be that which such persons would have received if they had been the only persons entitled to income benefits at the time of the decedent's death.

(3) For the purposes of this section, the average weekly wage of the employee shall be taken as not more than the average weekly wage of the state as determined in KRS 342.740. In no case shall the aggregate weekly income benefits payable to all beneficiaries under this section exceed the maximum income benefit that was or would have been payable for total disability to the deceased, including benefits to his dependents.

(4) The maximum weekly income benefits payable for all beneficiaries in case of death shall not exceed 75 percent of the average weekly wage of the deceased as calculated under KRS 342.140, subject to the maximum limits in subsection (3) above. The maximum aggregate limitation shall not operate in case of payment of two (2) years' income benefits to the widow or widower upon remarriage as provided under paragraph (c) of subsection (1) of this section, to prevent the immediate recalculation and payments of benefits to the remaining beneficiaries as provided under subsection (2) of this section, but the weekly income benefits as to such remaining beneficiaries shall not exceed the weekly income benefit that was or would have been payable for total disability to the deceased. The classes of beneficiaries specified in paragraphs (a), (b), and (d) of subsection (1) of this section shall have priority over all other beneficiaries in the apportionment of income benefits. If the provisions of this subsection should prevent payment to other beneficiaries of the income benefits to the full extent otherwise provided for by this section, the gross remaining amount of income benefits payable to such other beneficiaries shall be apportioned by class, proportionate to the interest of each class in the remaining amount. Parents shall be considered to be in one class and those specified in paragraph (f) of subsection (1) in another class.

(5) All relations of dependency referred to in this section shall mean dependency existing at the time of the accident to the employee or at the time his disability from an occupational disease began.

(6) In addition to other benefits as provided by this chapter, if death occurs within four (4) years of the date of injury as a direct result of a work-related injury, a lump-sum payment of ***fifty thousand dollars ($50,000)***[~~twenty-five thousand dollars ($25,000)~~] shall be made to the deceased's estate, from which the cost of burial and cost of transportation of the body to the employee's place of residence shall be paid. ***Annually, the commissioner shall compute, in accordance with KRS 342.740, the increase or decrease in the state average weekly wage, and consistent therewith, shall adjust the amount of the lump sum payment due under this subsection for injuries occurring in the succeeding year.***

(7) All benefits awarded pursuant to this section, other than those provided in subsection (6) of this section, shall be subject to the limitations contained in KRS 342.730(4).

SECTION 15. A NEW SECTION OF SUBTITLE 13 OF KRS CHAPTER 304 IS CREATED TO READ AS FOLLOWS:

Notwithstanding any other provision of this chapter to the contrary, the commissioner shall evaluate alternate methods of establishing workers' compensation insurance rates for employers in the construction industry and shall, within one hundred eighty (180) days of the effective date of this Act, promulgate administrative regulations prescribing that insurance carriers or rating organizations licensed under KRS 304.13-091 develop a method of computing workers' compensation premiums that does not discriminate against or penalize employers in the construction industry solely because they pay higher wages than other employers to workers in the same job classifications.

The Committee on Education reported **HB 58,** with Committee Substitute attached thereto, **HB 420,** with Committee Substitute attached thereto, **HB 675,** with Committee Substitute attached thereto, **HB 984,** with Committee Amendments attached thereto, **SB 56, SB 58,** with House Committee Substitute attached thereto, **SB 77,** with House Committee Substitute attached thereto, **SB 81,** and **SB 91,** with House Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 58, AN ACT relating to exemptions from compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial, or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state-supported program for exceptional children;

(g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under subsection (1)(d) of this section the Kentucky Board of Education shall require satisfactory evidence, in the form of a signed statement of a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, ***chiropractor,*** or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt the child from compulsory attendance. Any child who is excused from school attendance more than six (6) months shall have two (2) signed statements from a combination of the following professional persons: a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, ***chiropractor,*** and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section shall be reviewed annually with the evidence required being updated.

(3) For any child who is excluded under the provisions of subsection (1)(d) of this section, home, hospital, institutional, or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the Kentucky Board of Education shall be provided.

The Committee Substitute No. 1 to **HB 58** is as follows:

HB 58, AN ACT relating to exemptions from compulsory school attendance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 159.030 is amended to read as follows:

(1) The board of education of the district in which the child resides shall exempt from the requirement of attendance upon a regular public day school every child of compulsory school age:

(a) Who is a graduate from an accredited or an approved four (4) year high school; or

(b) Who is enrolled and in regular attendance in a private, parochial, or church regular day school. It shall be the duty of each private, parochial, or church regular day school to notify the local board of education of those students in attendance at the school. If a school declines, for any reason, to notify the local board of education of those students in attendance, it shall so notify each student's parent or legal guardian in writing, and it shall then be the duty of the parent or legal guardian to give proper notice to the local board of education; or

(c) Who is less than seven (7) years old and is enrolled and in regular attendance in a private kindergarten-nursery school; or

(d) Whose physical or mental condition prevents or renders inadvisable attendance at school or application to study; or

(e) Who is enrolled and in regular attendance in private, parochial, or church school programs for exceptional children; or

(f) Who is enrolled and in regular attendance in a state-supported program for exceptional children;

(g) For purposes of this section, "church school" shall mean a school operated as a ministry of a local church, group of churches, denomination, or association of churches on a nonprofit basis.

(2) Before granting an exemption under subsection (1)(d) of this section the~~[Kentucky]~~ board of education ***of the district in which the child resides*** shall require satisfactory evidence, in the form of a signed statement of a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, ***chiropractor,*** or public health officer, that the condition of the child prevents or renders inadvisable attendance at school or application to study. On the basis of such evidence the board may exempt the child from compulsory attendance. Any child who is excused from school attendance more than six (6) months shall have two (2) signed statements from a combination of the following professional persons: a licensed physician, advanced registered nurse practitioner, psychologist, psychiatrist, ***chiropractor,*** and health officer. Exemptions of all children under the provisions of subsection (1)(d) of this section shall be reviewed annually with the evidence required being updated.

(3) For any child who is excluded under the provisions of subsection (1)(d) of this section, home, hospital, institutional, or other regularly scheduled and suitable instruction meeting standards, rules and regulations of the Kentucky Board of Education shall be provided.

HB 420, AN ACT relating to superintendents of schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

(1) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years.

(2) (a) A board of education may enter into a contract with a superintendent of schools for a term of no more than three (3) years that is extended annually for an additional one (1) year period beyond the end of its current term. The contract may be extended upon evaluation and approval by the board of education of the superintendent's performance in fulfilling of his or her duties, or until the contract is modified or terminated by mutual agreement of the board of education and the superintendent.

(b) A board of education that elects to enter into a contract with a superintendent that is extended annually shall develop procedures for the evaluation of its superintendent, and shall evaluate its superintendent in accordance with those procedures when determining if the superintendent's contract will be extended.

(c) The evaluation shall to take place annually, prior to July 1.

(3) In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(4)~~[(2)]~~Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(5)~~[(3)]~~A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a highly skilled certified educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

The Committee Substitute No. 1 to **HB 420** is as follows:

HB 420, AN ACT relating to superintendents of schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.350 is amended to read as follows:

(1) After considering the recommendations of a screening committee, as provided in KRS 160.352, each board of education shall appoint a superintendent of schools whose term of office shall begin on July 1, following his appointment. The appointment may be for a term of no more than four (4) years. In the event a vacancy occurs in the office of superintendent prior to the expiration of the term set by the board, the term shall expire on the date the vacancy occurs. Therefore, the board may appoint a superintendent for a new term as provided in this subsection, which shall begin on the date of the superintendent's appointment, except when the vacancy occurs after a school board election and before the newly elected members take office. When a vacancy occurs during this period, the position shall not be filled until the new

members take office, but the board may appoint an acting superintendent to serve a term not to exceed six (6) months. This appointment may be renewed once for a period not to exceed three (3) months. If a vacancy occurs, a local board may also appoint an acting superintendent during the period the screening committee pursuant to KRS 160.352 conducts its business and prior to the actual appointment of the new superintendent. No superintendent shall resign his term and accept a new term from the same board of education prior to the expiration date of his present term. In the case of a vacancy in the office for an unexpired term, the board of education shall make the appointment so that the term will end on June 30. The board shall set the salary of the superintendent to be paid in regular installments.

(2) Before any superintendent assumes his duties, he shall present to the board of education that appointed him a statement signed by the chief state school officer that the superintendent has been duly issued a certificate of administration and supervision issued in accordance with the provisions of law and which qualifies him to hold the position to which he has been appointed, and he shall hold such certificate throughout the period of his employment. A superintendent candidate who is to begin his duties after June 30, 1994, shall successfully complete the training program and assessment center process within one (1) year of assuming his duties as superintendent. A superintendent shall not serve as director or officer of a bank, trust company, or savings or loan association which has his school district funds on deposit. Following appointment, the superintendent shall establish residency in Kentucky.

(3) A superintendent of schools may be removed for cause by a vote of four-fifths (4/5) of the membership of a board of education and upon approval by the chief state school officer. However, if the dismissal of the superintendent has been recommended by a highly skilled certified educator pursuant to KRS 158.6455 and the action is approved by the chief state school officer, the board shall terminate the superintendent's contract. Written notice setting out the charges for removal shall be spread on the minutes of the board and given to the superintendent. The board shall seek approval by the chief state school officer for removing the superintendent. The chief state school officer shall investigate the accuracy of the charges made, evaluate the superintendent's overall performance during his appointment, and consider the educational performance of the students in the district. Within thirty (30) days of notification, he shall either approve or reject the board's request.

(4) After the completion of a superintendent's first contract or after four (4) years, whichever comes last, the board of education may, no later than June 30, extend the contract of the superintendent for one (1) additional year beyond the current term of employment.

HB 675, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) ***(a)*** Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(b) A district board of education that provides a sick-leave program for teachers shall provide the same, or similar, sick-leave program for the board's other employees.

(3) Days of sick leave not taken by ***an employee or*** a teacher during any school year shall accumulate without limitation and be credited to that ***employee or*** teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow ***employees or*** teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to ***an employee or*** a teacher shall remain so credited in the event he transfers his place of employment from one (1) school

district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district[~~ after June 30, 1985~~].

(4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) (a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

(b) A teacher may receive donations of sick leave if:

1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;

2. The teacher's need for the absence and use of leave are certified by a licensed physician;

3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and

4. The teacher has complied with the school district's policies governing the use of sick leave.

(c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

Section 2. KRS 78.616 is amended to read as follows:

(1) Any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee.

(2) ***(a) Except as provided in paragraph (b) of this subsection,*** participation under this section shall be at the option of each participating employer. The election to participate shall be made by the governing authority of the participating employer and shall be certified in writing to the system on forms prescribed by the board. The certification shall provide for equal treatment of all employees participating under this section***;***

(b) A school board that provides a sick-leave program for certified employees shall provide the same or similar sick-leave program for its noncertified employees and shall purchase service credit with the retirement system for

each retiring employee's unused sick leave not in excess of six (6) months, which shall be treated as specified in subsection (3)(a) of this section. Sick leave in excess of six (6) months shall be treated as specified in subsection (3)(b) of this section.

(3) (a) Upon the member's notification of retirement as prescribed in KRS 61.590, the employer shall certify the retiring employee's unused, accumulated sick-leave balance to the system. The member's sick-leave balance, expressed in days, shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. A maximum of six (6) months of the member's sick-leave balance, expressed in months, shall be added to his service credit for the purpose of determining his annual retirement allowance under KRS 78.510 to 78.852 and for the purpose of determining whether the member is eligible to receive a retirement allowance under KRS 78.510 to 78.852. Accumulated sick-leave in excess of six (6) months shall be added to the member's service credit if the member or employer pays to the retirement system the value of the additional service credit based on the formula adopted by the board.

(b) The employer may elect to pay fifty percent (50%) of the cost of the sick leave in excess of six (6) months on behalf of its employees. The employee shall pay the remaining fifty percent (50%). The payment by the employer shall not be deposited to the member's account. Service credit shall not be credited to the member's account until both the employer's and employee's payments are received by the retirement system.

(c) Once the employer elects to pay all or fifty percent (50%) of the cost on behalf of its employees, it shall continue to pay the same portion of the cost.

(4) The system shall compute the cost of the sick-leave credit of each retiring employee and bill the employer accordingly. The employer shall remit payment within thirty (30) days from receipt of the bill.

(5) ***(a)*** As an alternative to subsections (1), ***(2)(b),*** (3), (4), and (6) of this section, any agency participating in the County Employees Retirement System which has formally adopted a sick-leave program that is universally administered to its employees, or administered to a majority of eligible employees in accordance with subsection (6) of this section, shall, at the time of termination, compensate the employee for unused sick-leave days the employee has accumulated which it is the uniform policy of the agency to allow. The rate of compensation for each unused sick-leave day shall be based on the daily salary rate calculated from the employee's current rate of pay. Payment for unused sick-leave days shall be incorporated into the employee's final compensation if the employee and employer make the regular employee and employer contributions, respectively, on the sick-leave payment. The number of sick-leave days for which the employee is compensated shall be divided by the average number of working days per month in county service and rounded to the nearest number of whole months. This number of months shall be added to the employee's total service credit and to the number of months used to determine creditable compensation, pursuant to KRS 78.510, but no more than sixty (60) months shall be used to determine final compensation***; or***

(b) As an alternative to subsection (2)(b) of this Section, any school board that has adopted a sick-leave program that is the same, or similar, to its sick-leave program for teachers, may compensate its employees, at the time of termination, for unused sick-leave days as provided in subsection (9) of Section 1 of this Act.

(6) Any city of the first class that has two (2) or more sick-leave programs for its employees may purchase service credit with the retirement system for up to six (6) months of unused sick leave for each retiring employee who participates in the sick-leave program administered to a majority of the eligible employees of the city. An employee participating in a sick-leave program administered to a minority of the eligible employees shall become eligible for the purchase of service credit under this subsection when the employee commences participating in the sick-leave program that is administered to a majority of the eligible employees of the city.

The Committee Substitute No. 1 to **HB 675** is as follows:

HB 675, AN ACT relating to retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 161.155 is amended to read as follows:

(1) As used in this section:

(a) "Teacher" shall mean any person for whom certification is required as a basis of employment in the common schools of the state;

(b) "Employee" shall mean any person, other than a teacher, employed in the public schools, whether on a full or part-time basis;

(c) "Immediate family" shall mean the teacher's spouse, children including stepchildren, grandchildren, parents and spouse's parents, grandparents, and spouse's grandparents, without reference to the location or residence of said relative, and any other blood relative who resides in the teacher's home; and

(d) "Sick leave bank" shall mean an aggregation of sick leave days contributed by teachers for use by teachers who have exhausted all sick leave and other available paid leave days.

(2) Each district board of education shall allow to each teacher in its common school system not less than ten (10) days of sick leave during each school year, without deduction of salary. Sick leave shall be granted to a teacher if he presents a personal affidavit or a certificate of a physician stating that the teacher was ill, that the teacher was absent for the purpose of attending to a member of his immediate family who was ill, or for the purpose of mourning a member of his immediate family. The ten (10) days of sick leave herein granted may be taken by a teacher on any ten (10) days of the school year and shall be granted in addition to accumulated sick leave days that have been credited to the teacher under the provisions of subsection (3) of this section.

(3) Days of sick leave not taken by ***an employee or*** a teacher during any school year shall accumulate without limitation and be credited to that ***employee or*** teacher. Accumulated sick leave may be taken in any school year. Any district board of education may, in its discretion, allow ***employees or*** teachers in its common school system sick leave in excess of the number of days prescribed in this section and may allow school district employees and teachers to use up to three (3) days' sick leave per school year for emergency leave pursuant to KRS 161.152(3). Any accumulated sick leave days credited to ***an employee or*** a teacher shall remain so credited in the event he transfers his place of employment from one (1) school district to another within the state or to the Kentucky Department of Education or transfers from the Department of Education to a school district~~[after June 30, 1985]~~.

(4) Accumulated days of sick leave shall be granted to a teacher if, prior to the opening day of the school year, an affidavit or a certificate of a physician is presented to the district board of education, stating that the teacher is unable to commence his duties on the opening day of the school year, but will be able to assume his duties within a period of time that the board determines to be reasonable.

(5) Any school employee may repurchase previously used sick leave days with the concurrence of the local school board by paying to the district an amount equal to the total of all costs associated with the used sick leave.

(6) A district board of education may adopt a plan for a sick leave bank. The plan may include limitations upon the number of days a teacher may annually contribute to the bank and limitations upon the number of days a teacher may annually draw from the bank. Only those teachers who contribute to the bank may draw upon the bank. Days contributed will be deducted from the days available to the contributing teacher. The sick leave bank shall be administered in accordance with a policy adopted by the board of education.

(7) (a) A district board of education shall establish a sick leave donation program to permit teachers to voluntarily contribute sick leave to teachers in the same school district who are in need of an extended absence from school. A teacher who has accrued more than fifteen (15) days sick leave may request the board of education to transfer a designated amount of sick leave to another teacher who is authorized to receive the sick leave donated. A teacher may not request an amount of sick leave be donated that reduces his or her sick leave balance to less than fifteen (15) days.

(b) A teacher may receive donations of sick leave if:

1. The teacher or a member of his or her immediate family suffers from a medically certified illness, injury, impairment, or physical or mental condition that has caused or is likely to cause the teacher to be absent for at least ten (10) days;
2. The teacher's need for the absence and use of leave are certified by a licensed physician;
3. The teacher has exhausted his or her accumulated sick leave, personal leave, and any other leave granted by the school district; and
4. The teacher has complied with the school district's policies governing the use of sick leave.

(c) While an employee is on sick leave provided by this section, he or she shall be considered a school district employee, and his or her salary, wages, and other employee benefits shall not be affected.

(d) Any sick leave that remains unused, is not needed by a teacher, and will not be needed in the future shall be returned to the teacher donating the sick leave.

(e) The board of education shall adopt policies and procedures necessary to implement the sick leave donation program.

(8) A teacher may use up to thirty (30) days of sick leave following the birth or adoption of a child or children. Additional days may be used when the need is verified by a physician's statement.

(9) After July 1, 1982, a district board of education may compensate, at the time of retirement, an employee or a teacher for each unused sick leave day. The rate of compensation for each unused sick leave day shall be based on a percentage of the daily salary rate calculated from the employee's or teacher's last annual salary, not to exceed thirty percent (30%). Payment for unused sick leave days shall be incorporated into the annual salary of the final year of service; provided that the member makes the regular retirement contribution for members on the sick leave payment. The accumulation of these days includes unused sick leave days held by the employee or teacher at the time of implementation of the program.

(10) Any statute to the contrary notwithstanding, employees and teachers who transferred from the Department of Education to a school district, from a school district to the Department of Education, or from one (1) school district to another school district after July 15, 1981, shall receive credit for any unused sick leave to which the employee or teacher was entitled on the date of transfer. This credit shall be for the purposes set forth in subsection (9) of this section.

HB 984, AN ACT relating to budget statements.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 160.463 is amended to read as follows:

The school board of each public school system in any county having 300,000 or more inhabitants shall direct its superintendent to publish, in full, annually, in the newspaper of the largest general circulation in the county, the annual financial statements of the school system audited by certified public accountants or an accountant approved by the State Department of Education. Each system's financial statements shall be prepared and presented on a basis consistent with that of the other systems. ***The school district may choose to satisfy the requirement in this section by publishing the statement of revenue and expenditures from the official audit, together with the summary statement that the audit report is available for inspection at the offices of the local school district during normal working hours of the school district. The local district, at its expense, shall mail a copy of the audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one.***

Section 2. KRS 424.220 is amended to read as follows:

(1) Excepting officers of a city of the first class, a county containing such a city, a public agency of such a city or county, or a joint agency of such a city and county, or of a school district of such a city or county, and excepting officers of a city of the second class or an urban-county government, every public officer of any school district, city, county, or subdivision, or district less than a county, whose duty it is to collect, receive, have the custody, control, or disbursement of public funds, and every officer of any board or commission of a city, county or district whose duty it is to collect, receive, have the custody, control, or disbursement of funds collected from the public in the form of rates, charges, or assessments for services or benefits, shall at the expiration of each fiscal year prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by him during the fiscal year just closed, unless he has complied with KRS 424.230. Pursuant to subsections (2) and (3) of KRS 91A.040, each city of the sixth class shall prepare an itemized, sworn statement of the funds collected, received, held, or disbursed by the city which complies with the provisions of this section.

(2) The statement shall show:

(a) The total amount of funds collected and received during the fiscal year from each individual source; and

(b) The total amount of funds disbursed during the fiscal year to each individual payee and the purpose for which the funds were expended.

(3) Only the totals of amounts paid to each individual as salary or commission and public utility bills shall be shown. The amount of salaries paid to all nonelected county employees shall be shown as lump-sum expenditures by category, including, but not limited to, road department, jails, solid waste, public safety, and administrative personnel.

(4) The amount of salaries paid to all teachers shall be shown as a lump-sum instructional expenditure for the school district and not by amount paid to individual teachers. The amount of salaries paid to all other employees of the board shall be shown as lump-sum expenditures by category, including, but not limited to, administrative, maintenance, transportation, and food service. The local board of education and the fiscal court shall have accessible a factual list of individual salaries for public scrutiny and the local board and the fiscal court shall furnish by mail a factual list of individual salaries of its employees to a newspaper qualified under KRS 424.120 to publish advertisements for the district, which newspaper may then publish as a news item the individual salaries of school or county employees.

(5) The officer shall procure and include in or attach to the financial statement, as a part thereof, a certificate from the cashier or other proper officer of the banks in which the funds are or have been deposited during the past year, showing the balance, if any, of funds to the credit of the officer making the statement.

(6) The officer shall, except in a city electing to publish its audit in lieu of the financial statement in accordance with KRS 91A.040(6), within sixty (60) days after the close of the fiscal year cause the financial statement to be published in full in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district, as the case may be. Promptly after the publication is made, the officer shall file a written or printed copy of the advertisement with proof of publication, in the office of the county clerk of the county and with the Auditor of Public Accounts. Promptly after the publication is made, the officer shall also file one (1) copy of the financial statement with the Kentucky Department for Local Government.

(7) In lieu of the publication requirements of subsection (6) of this section, ***the school district and*** the appropriate officer of any municipally-owned electric, gas, or water system may elect to satisfy the requirements of subsection (6) of this section by:

(a) Preparation of a certified audit by a certified public accountant, performed in accordance with generally accepted principles of accounting, for the fiscal year;

(b) Publishing in a newspaper qualified under KRS 424.120 to publish advertisements for the city, county, or district as the case may be, the statement of revenue and expenditures from ***the certified***~~[such]~~ audit, together with the ***summary*** statement that the audit report is available for inspection at the offices of the ***local school districts or the*** utility***. The school district, at its expense, shall mail a copy of the statement of revenue and expenditure from the certified audit to any individual who requests it in writing. The district is encouraged to post the summary on its World Wide Web homepage, if it maintains one***; and

(c) Making such audit available for inspection on request of anyone during normal working hours of the utility.

(8) In lieu of the publication requirements of subsection (6) of this section, the appropriate officer of a county may elect to satisfy the requirements of subsection (6) of this section by publishing an audit, prepared in accordance with KRS 43.070 or 64.810, in the same manner that city audits are published in accordance with KRS 91A.040(7).

Section 3. KRS 424.250 is amended to read as follows:

At the same time that copies of the budget of a school district are filed with the clerk of the tax levying authority for the district, as provided in KRS 160.470, the board of education of the district shall cause the budget to be advertised for the district by publishing a copy of the budget in a newspaper. ***The local district, at its expense, shall mail a copy of the budget to any individual who requests it in writing. Each district is encouraged to post the budget on its World Wide Web homepage, if it maintains one.***

The Committee Amendment No. 1 to **HB 984** is as follows:

On page 4, after line 14, by inserting the following section

"Section 4. KRS 158.6453 is amended to read as follows:

(1) The Kentucky Board of Education shall be responsible for creating and implementing a statewide assessment program to be known as the Commonwealth Accountability Testing System to ensure school accountability for student achievement of the goals set forth in KRS 158.645 and 158.6451. The board shall seek the advice of the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability in the development of the program. The statewide assessment program shall not include measurement of a student's ability to become a self-sufficient individual or to become a responsible member of a family, work group, or community.

(2) The assessment program shall include the following components:

(a) A customized or commercially available norm-referenced test that measures, to the extent possible, the core content for assessment. The test shall provide valid and reliable results for individual students;

(b) Open-response or multiple-choice items, or both, to assess student skills in reading, mathematics, science, social studies, the arts, the humanities, and practical living and vocational studies; and an on-demand assessment of student writing. These assessments shall measure, to the extent possible, the core content for assessment;

(c) Writing portfolios consisting of samples of student work. After receiving the advice of the Writing Advisory Committee, the Kentucky Board of Education shall, by September 1 following April 14, 1998, file a notice of intent to promulgate an administrative regulation which reduces the teacher and student time involved in preparing a writing portfolio. Time reduction strategies included in the administrative regulation may include, but are not limited to, limiting the time spent on a single portfolio entry, limiting the number of revisions, or collecting entries at different grade levels;

(d) Performance assessment events for schools that have students enrolled in performing arts organizations sponsoring sanctioned events with an established protocol for adjudication; and

(e) A technically sound longitudinal comparison of the assessment results for the same students.

(3) Kentucky teachers shall have a significant role in the design of the assessments. The assessments shall be designed to:

(a) Measure grade appropriate core academic content, basic skills, and higher-order thinking skills and their application. The assessment shall measure the core content for assessment used by the Department of Education during the 1997-98 school year. Any revisions to the core content for assessment shall be developed through a public process involving parents; educators at the elementary, secondary, and postsecondary education levels; professional education advocacy groups and organizations; and business and civic leaders and shall be distributed to all public schools;

(b) Provide valid and reliable scores for schools. If scores are reported for students individually, they shall be valid and reliable; and

(c) Minimize the time spent by teachers and students on assessment.

(4) Results from the state assessment under this section shall be reported to the school districts and schools no later than

September 15 of the following school year.

(5) The Department of Education shall gather information to establish the validity of the assessment and accountability program. It shall develop a biennial plan for validation studies that shall include, but not be limited to, the consistency of student results across multiple measures, the congruence of school scores with documented improvements in instructional practice and the school learning environment, and the potential for all scores to yield fair, consistent, and accurate student performance level and school accountability decisions. Validation activities shall take place in a timely manner and shall include a review of the accuracy of scores assigned to students and schools, as well as of the testing materials. The plan shall be submitted to the Commission by July 1 of the first year of each biennium. A summary of the findings shall be submitted to the Legislative Research Commission by September 1 of the second year of the biennium.

(6) In addition to statewide testing for the purpose of determining school success, the board shall have the responsibility of assisting local school districts and schools in developing and using continuous assessment strategies needed to assure student progress. The continuous assessment shall provide diagnostic information to improve instruction to meet the needs of individual students.

(7) The Kentucky Board of Education, after the Department of Education has received advice from the Office of Education Accountability; the School Curriculum, Assessment, and Accountability Council; and the National Technical Advisory Panel on Assessment and Accountability, shall promulgate an administrative regulation under KRS Chapter 13A to establish the components of a school report card that clearly communicates with parents and the public about school performance. The school report card shall be sent to the parents of the students of the districts, and a summary of the results for the district shall be published in the newspaper with the largest circulation in the county ***or, notwithstanding any other provision to the contrary, distributed in a publication of at least monthly issue with a circulation equal to or exceeding that of a newspaper with the largest circulation in the school district***. It shall include, but not be limited to, the following components reported by race, gender, and disability when appropriate:

(a) Student academic achievement, including the results from each of the assessments administered under this section;

(b) Nonacademic achievement, including the school's attendance, retention, dropout rates, and student transition to adult life; and

(c) School learning environment, including measures of parental involvement.".

The Committee Amendment No. 2 Title to **HB 984** is as follows:

By amending the title to read as follows: "AN ACT relating to school district reporting.".

SB 56, AN ACT relating to the National Guard Tuition Award Program.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.5169 is amended to read as follows:

Upon certification by the Department of Military Affairs that the member is eligible, the Kentucky Higher Education Assistance Authority shall, to the extent that funds have been appropriated and are available to the National Guard Tuition Award Program, pay to the educational institution an amount ***up to or*** equal to the in-state tuition costs of full-time or part-time study.

SB 58, AN ACT relating to higher education finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.5161 is amended to read as follows:

(1) ***"Educational institution" means an in-state public or private postsecondary educational institution.***

(2) The General Assembly of the Commonwealth of Kentucky establishes the National Guard Tuition Award Program to provide[~~ enlisted~~] members of the Kentucky National Guard the opportunity to attend ***an in-state***[~~a state~~] educational institution. The tuition award program shall be established in the Kentucky Higher Education Assistance Authority.

(3)[~~(2)~~]The Kentucky Higher Education Assistance Authority pursuant to KRS Chapter 13A, shall promulgate administrative regulations necessary to the financial management of the tuition award program.

(4)[~~(3)~~]The Department of Military Affairs, pursuant to KRS Chapter 13A, shall promulgate administrative regulations concerning the eligibility of members to participate in the tuition award program established in this section.

The House Committee Substitute No. 1 to **SB 58** is as follows:

SB 58, AN ACT relating to higher education finance.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 164.5161 is amended to read as follows:

(1) *"Educational institution" means an in-state public or private postsecondary educational institution.*

(2) The General Assembly of the Commonwealth of Kentucky establishes the National Guard Tuition Award Program to provide~~[enlisted]~~ members of the Kentucky National Guard the opportunity to attend *an in-state*~~[a state]~~ educational institution. *The tuition paid shall be up to or equal to the in-state full or part-time tuition rate of the institution the member attends except that tuition paid in support of a member attending a private postsecondary educational institution shall be up to or equal to the average in-state full or part-time tuition rate of a public university or community college. Until the appropriation for the tuition assistance program of the Department of Military Affairs is first fully funded by the General Assembly, tuition for a member to attend a private institution shall not be paid.* The tuition award program shall be established in the Kentucky Higher Education Assistance Authority.

(3)~~[(2)]~~The Kentucky Higher Education Assistance Authority pursuant to KRS Chapter 13A, shall promulgate administrative regulations necessary to the financial management of the tuition award program.

(4)~~[(3)]~~The Department of Military Affairs, pursuant to KRS Chapter 13A, shall promulgate administrative regulations concerning the eligibility of members to participate in the tuition award program established in this section.

SB 77, AN ACT relating to professional development for middle school mathematics teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Center" means the Center for Middle School Mathematics Achievement;

(2) "Fund" means the Middle School Mathematics Professional Development Fund;

(3) "Middle school" means grades six (6) through eight (8), regardless of school or district configuration; and

(4) "Reliable, replicable research" means objective, valid, scientific studies that:

- *(a) Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;*
- *(b) Rely on measurements that meet established standards of reliability and validity;*
- *(c) Test competing theories, where multiple theories exist; and*
- *(d) Are subjected to peer review before results are published.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Middle School Mathematics Professional Development Fund is created to provide resources to insure the availability across the state of middle school teachers with a high level of mathematics content knowledge and a demonstrated ability in successfully imparting mathematics content knowledge to students.

(2) The fund may provide moneys to middle school mathematics teachers for:

- *(a) Tuition reimbursement for successful completion of college or university level mathematics courses approved for this purpose by the Education Professional Standards Board;*
- *(b) Stipends for participation in and successful completion of:*
  - *1. College or university courses approved for this purpose by the Education Professional Standards Board;*
  - *2. Teacher institutes developed for middle school mathematics instructors by the Department of Education in compliance with KRS Chapter 156.097; and*
  - *3. Other professional development programs approved by Kentucky Department of Education; and*
- *(c) Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:*
  - *1. Travel to and from professional development mathematics workshops; and*
  - *2. Travel to and from other schools for the observation of, and consultation with, peer mathematics mentors.*

(3) The Education Professional Standards Board shall determine the college and university courses for which teachers may receive reimbursement from the fund.

(4) The Department of Education shall:

- *(a) Administer the fund;*
- *(b) Determine the professional development programs for which teachers may receive reimbursement from the fund;*

(c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsections 2(a) to 2(c) of this section; and

(d) Provide an accounting of fund expenditures to the Center for Middle School Mathematics Achievement, upon request of the center, for use in preparing the center's annual report.

(5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:

(a) Focus on improving the mathematics content knowledge of middle school mathematics teachers;

(b) Provide instruction on teaching methods, to effectively impart mathematics content knowledge to all students;

(c) Include intensive training institutes and workshops during the summer;

(d) Provide programs for the ongoing support of teacher participants throughout the year, which may include:

1. A peer coaching or mentoring, and assessment program; and

2. Planned activities, including:

a. Follow-up workshops; and

b. Support networks of teachers of middle school mathematics using technologies including, but not limited to, telephone, video, and on-line computer networks; and

(e) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.

(6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:

(a) The application and approval process for receipt of funds;

(b) The requirements and process for the disbursal of funds; and

(c) The number of each kind of approved course for which applicants may receive funds.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Center for Middle School Mathematics Achievement is created to improve the content knowledge and instructional practice of middle school mathematics teachers through the coordination of professional development programs for middle school mathematics teachers, the provision of technical assistance to schools and teachers, and the collection and dissemination of information and research regarding effective models of teaching mathematics to middle school students.

(2) The center shall:

(a) Foster collaboration between the center, the Department of Education, the Education Professional Standards Board, postsecondary institutions of education, postsecondary departments of mathematics, and other entities to develop content-based teacher preparation programs and ongoing professional development programs for middle school mathematics teachers, aligned with the Department of Education's core content for assessment;

(b) Assist school districts in assessing and addressing their needs and deficiencies in middle school mathematics curriculum and instruction;

(c) Assist middle school mathematics teachers in establishing and maintaining networks of communication to share information regarding middle school mathematics instructional practice, curriculum development, and other areas of common interest, building upon existing networks;

(d) Develop and maintain a clearinghouse for information about:

1. Educational models addressing mathematics skills of middle school students, based on reliable, replicable research;

2. Mathematics achievement levels of Kentucky students in relation to students in other states and other countries; and

3. The relationship between student achievement levels and curriculum content, curriculum structure and alignment with content, teacher training, and teaching methods;

(e) Develop and implement a research structure, in collaboration with the Department of Education, to evaluate the effectiveness of different middle school mathematics instructional models; and

(f) Submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year. The report shall include information outlining the center's activities, information provided by the Kentucky Department of Education regarding the use of money from the Middle School Mathematics Professional Development Fund, and other information regarding efforts to improve the quality of middle school mathematics instruction in Kentucky.

(3) With the advice of the Commissioner of Education and the Education Professional Standards Board, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Center for

Middle School Mathematics Achievement at a public or private college or university. The council shall choose a college or university that has demonstrated the coordination of course delivery between the faculties of the college of education and mathematics department within the college or university. The council shall approve the location for the center no later than November 15, 2000.

The House Committee Substitute No. 1 to **SB 77** is as follows:

SB 77, AN ACT relating to professional development for middle school mathematics teachers.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

As used in Sections 1 to 3 of this Act, unless the context requires otherwise:

(1) "Center" means the Center for Middle School Mathematics Achievement;

(2) "Fund" means the Middle School Mathematics Professional Development Fund;

(3) "Middle school" means grades five (5) through eight (8), regardless of school or district configuration; and

(4) "Reliable, replicable research" means objective, valid, scientific studies that:

(a) Include rigorously defined samples of subjects that are sufficiently large and representative to support the general conclusions drawn;

(b) Rely on measurements that meet established standards of reliability and validity;

(c) Test competing theories, where multiple theories exist; and

(d) Are subjected to peer review before results are published.

SECTION 2. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Middle School Mathematics Professional Development Fund is created to provide resources to insure the availability across the state of middle school teachers with a high level of mathematics content knowledge and a demonstrated ability in successfully imparting mathematics content knowledge to students.

(2) The fund may provide moneys to middle school mathematics teachers for:

(a) Tuition reimbursement for successful completion of college or university level mathematics courses approved for this purpose by the Education Professional Standards Board;

(b) Stipends for participation in and successful completion of:

1. College or university courses approved for this purpose by the Education Professional Standards Board;

2. Teacher institutes developed for middle school mathematics instructors by the Department of Education in compliance with KRS Chapter 156.097; and

3. Other professional development programs approved by Kentucky Department of Education; and

(c) Reimbursement for other approved professional development activities throughout the school year, including reimbursement for:

1. Travel to and from professional development mathematics workshops; and

2. Travel to and from other schools for the observation of, and consultation with, peer mathematics mentors.

(3) The Education Professional Standards Board shall determine the college and university courses for which teachers may receive reimbursement from the fund.

(4) The Department of Education shall:

(a) Administer the fund;

(b) Determine the professional development programs for which teachers may receive reimbursement from the fund;

(c) Determine the level of stipend or reimbursement, subject to the availability of appropriated funds, for particular courses and programs, under subsections 2(a) to 2(c) of this section; and

(d) Provide an accounting of fund expenditures to the Center for Middle School Mathematics Achievement, upon request of the center, for use in preparing the center's annual report.

(5) The professional development programs approved by the Department of Education for which teachers may receive support from the fund shall:

(a) Focus on improving the mathematics content knowledge of middle school mathematics teachers;

(b) Provide instruction on teaching methods, to effectively impart mathematics content knowledge to all students;

(c) Include intensive training institutes and workshops during the summer;

(d) Provide programs for the ongoing support of teacher participants throughout the year, which may include:

1. A peer coaching or mentoring, and assessment program; and

2. Planned activities, including:

a. Follow-up workshops; and

b. Support networks of teachers of middle school mathematics using technologies including, but not limited to, telephone, video, and on-line computer networks; and

(e) Provide teacher participants with professional development credit toward renewal of certification under the provisions of KRS 161.095, relating to continuing education for teachers.

(6) The Kentucky Board of Education shall specify through promulgation of administrative regulations:

(a) The application and approval process for receipt of funds;

(b) The requirements and process for the disbursal of funds; and

(c) The number of each kind of approved course for which applicants may receive funds.

SECTION 3. A NEW SECTION OF KRS CHAPTER 156 IS CREATED TO READ AS FOLLOWS:

(1) The Center for Middle School Mathematics Achievement is created to improve the content knowledge and instructional practice of middle school mathematics teachers through the coordination of professional development programs for middle school mathematics teachers, the provision of technical assistance to schools and teachers, and the collection and dissemination of information and research regarding effective models of teaching mathematics to middle school students.

(2) The center shall:

(a) Foster collaboration between the center, the Department of Education, the Education Professional Standards Board, postsecondary institutions of education, postsecondary departments of mathematics, and other entities to develop content-based teacher preparation programs and ongoing professional development programs for middle school mathematics teachers, aligned with the Department of Education's core content for assessment;

(b) Assist school districts in assessing and addressing their needs and deficiencies in middle school mathematics curriculum and instruction;

(c) Assist middle school mathematics teachers in establishing and maintaining networks of communication to share information regarding middle school mathematics instructional practice, curriculum development, and other areas of common interest, building upon existing networks;

(d) Develop and maintain a clearinghouse for information about:

1. Educational models addressing mathematics skills of middle school students, based on reliable, replicable research;

2. Mathematics achievement levels of Kentucky students in relation to students in other states and other countries; and

3. The relationship between student achievement levels and curriculum content, curriculum structure and alignment with content, teacher training, and teaching methods;

(e) Develop and implement a research structure, in collaboration with the Department of Education, to evaluate the effectiveness of different middle school mathematics instructional models; and

(f) Submit an annual report to the Governor and the Legislative Research Commission by September 1 of each year. The report shall include information outlining the center's activities, information provided by the Kentucky Department of Education regarding the use of money from the Middle School Mathematics Professional Development Fund, and other information regarding efforts to improve the quality of middle school mathematics instruction in Kentucky.

(3) With the advice of the Commissioner of Education and the Education Professional Standards Board, the Council on Postsecondary Education shall develop a process to solicit, review, and approve a proposal for locating the Center for Middle School Mathematics Achievement at a public or private college or university. The council shall choose a college or university that has demonstrated the coordination of course delivery between the faculties of the college of education and mathematics department within the college or university. The council shall approve the location for the center no later than November 15, 2000.

SB 81, AN ACT relating to the elementary school curriculum.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) (a) *The General Assembly finds and declares that the integration of the arts and foreign languages into the school curriculum benefits students by increasing their motivation to learn; improves attendance; fosters multicultural understanding; and develops neurological cognitive potential through higher order thinking skills, creativity, and problem solving. Further, the General Assembly finds and declares that arts and foreign language education can renew and invigorate faculty and can foster greater parent and community participation and support.*

(b) *The General Assembly notes that it created a system of public education that allows and assists all students to acquire certain capacities provided under KRS 158.645, including communication skills necessary to function in a complex and changing civilization and sufficient grounding in the arts to enable each student to appreciate his or her cultural and historical heritage.*

(c) *The General Assembly further notes that its goals for public schools under KRS 158.6451 include developing students' abilities to use basic communication and mathematics skills for purposes and situations they will encounter throughout their lives; to apply core concepts and principles from mathematics, the sciences, the arts, the humanities, social studies; and to connect and integrate experiences and new knowledge from all subject matter fields with what they have previously learned and build on past learning experiences to acquire new information through various sources.*

(2) *It is the intent of the General Assembly in enacting Section 2 of this Act to address the findings and declarations set out in subsection (1) of this section.*

SECTION 2. A NEW SECTION OF KRS CHAPTER 158 IS CREATED TO READ AS FOLLOWS:

(1) *The Kentucky Board of Education shall establish a program, administered by the Department of Education that promotes the integration of the arts and foreign languages in the elementary school program. The board shall authorize grants to at least one (1) school per district selected for participation in the program by the local school board with the agreement of the school council, or the school faculty if a council does not exist. Special consideration shall be given, but not limited to, schools without existing comprehensive arts and foreign language programs.*

(2) *School programs under subsection (1) of this section shall include, but not be limited to, the following components:*

(a) *Instruction in each of the four (4) disciplines of dance, drama, music, and the visual arts that includes the core content skills and knowledge taught in a sequential manner and includes all students in the elementary school;*

(b) *Intense instruction in at least one (1) foreign language that includes skills and knowledge related to communicative language and culture taught and includes all students in the elementary school;*

(c) *Integration of arts and foreign language instruction across the curriculum;*

(d) *Coordination of the programs by teachers with appropriate arts and foreign language certification;*

(e) *Professional development for teachers and administrators designed to facilitate the effective teaching of arts and foreign language;*

(f) *An effective monitoring and evaluation system that includes student performance assessment;*

(g) *Partnerships with parents, local cultural agencies, individual artists, and native speakers of the foreign language who work in collaboration with classroom teachers;*

(h) *Support from the local school board, the school council, and teachers, including allocation of financial resources; and*

(i) *Student attendance at one (1) or more live performances each school year.*

(3) *The Department of Education shall report annually by July 1 of each year on the implementation of the program to the Governor and the Legislative Research Commission.*

SB 91, AN ACT relating to instructional materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The chief state school officer shall arrange the elementary***, middle,*** and ***high***[~~secondary~~] school subjects included in the state courses of study as prescribed by the Kentucky Board of Education into six (6) adoption groups.

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one (1) group being up for adoption each year. The six (6) adoption groups shall be ***arranged by similarity of content to the extent possible, while being*** arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.

(3) The chief state school officer may delay the purchase of books due to insufficient funds, but any purchases of books shall be in accordance with KRS Chapter 156.

Section 2. KRS 156.405 is amended to read as follows:

(1) The purpose of the State Textbook Commission is to provide a ***recommended*** list of current and high quality textbooks ***and instructional materials*** to local school districts ***that***[~~,which~~] complement the educational program in Kentucky schools***; to provide a consumer guide to schools to aid with the selection of materials;***[~~,~~] and to provide for public participation in the ***evaluation***[~~adoption~~] process.

(2) The State Textbook Commission shall consist of the chief state school officer and ***ten (10)***[~~eleven (11)~~] appointive members. The ***ten (10)***[~~eleven (11)~~] members shall be appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be ***four (4)***[~~five (5)~~] appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms. The ***Department of Education and the*** State Textbook Commission shall receive assistance in the textbook ***evaluation***[~~selection~~] process from professionals and lay citizens who will[~~ serve on a contractual basis and~~] be referred to in this chapter as the "textbook reviewers."

(3) The State Textbook Commission shall:

(a) Select and direct the activities of the textbook reviewers who develop selection criteria and review textbooks and programs;

(b) Develop selection criteria and evaluation forms with the help of the textbook reviewers ***and Kentucky Department of Education staff*** to be used in the state level ***review***[~~selection~~] process;

(c) Approve the evaluative criteria and forms used by the commission and textbook reviewers;

(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a ***recommended*** list of high quality ***materials***[~~books~~];

(e) Select, ***recommend***[~~approve~~], and publish a list of high quality textbooks ***and programs; and***

(f) Publish a consumer guide and distribute it to Kentucky public schools.

(4) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the State Textbook Commission based on the recommendation of the chief state school officer.

(5) The textbook reviewers shall:

(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks ***and programs***;

(b) Review textbooks and programs to determine those of high quality, using evaluative criteria and forms approved by the commission;

(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs; and,

(d) Attend meetings and training sessions as requested by the commission and the Department of Education.

(6) ***(a)*** ***1.*** Eight (8) of the appointive members of the State Textbook Commission shall have had not less than five (5) ***years***[~~years'~~] teaching or supervising experience in the public schools of Kentucky and ***shall***[~~must~~] have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education.

2. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books.

3. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems.

4. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher ***preparation***[~~education. One (1) member shall be the executive director of the Kentucky Educational Publishers Association or any other legitimate trade association of textbook publishers recognized by the Kentucky Board of Education, but shall not represent any particular publisher. This member shall have no vote but may otherwise participate in the business of the commission~~].

5. Two (2) members shall be lay citizens***, one (1) of whom shall have a child enrolled in a public school at the time of appointment***.

(b) In recommending the members of the State Textbook Commission the chief state school officer shall give due regard to representation from rural and urban areas and ***from the***[~~both~~] elementary***, middle*** and ***high***[~~secondary~~] levels when ***the***[~~both~~] educational levels are included in the subject field or fields for which adoptions are to be made[~~. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment~~].

(7) Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels primary through grade twelve (12), with

experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents***, two (2) of whom shall have a child***[~~ of children~~] currently enrolled in public schools in Kentucky.

(8) Members of the State Textbook Commission[~~, except the trade association member,~~] shall receive fifty ($50) dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the chief state school officer. Textbook reviewers[~~ shall be hired through a personal service contract and remuneration~~] shall ***be paid one hundred dollars ($100) per day, not to exceed one thousand dollars ($1,000)***[~~not exceed a maximum of seven hundred and fifty ($750) dollars~~] annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer or commission meetings.

(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.

(10) Not later than May 1 each year the chief state school officer shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its voting members as chairman and shall adopt administrative regulations for the procedure of the commission. The chief state school officer shall be the secretary of the commission.

Section 3. KRS 156.407 is amended to read as follows:

(1) The chief state school officer shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling twelve (12) positions[~~ in each subject area~~] for textbook reviewers***.***[~~;~~]

(2) Solicitation shall be statewide ***for all appointments*** and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed ***if appropriate for the appointment.***[~~or are parents of children currently enrolled in public schools in Kentucky;~~]

(3) The State Textbook Commission, at its first yearly meeting, shall select textbook reviewers based on a list of qualified applicants prepared by the chief state school officer and giving consideration to ***the***[~~his~~] recommendations as specified in KRS 156.405***.***[~~;~~]

(4)[~~ The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.~~

~~(5)~~] The Department of Education's curriculum and instruction specialists shall serve as staff to the commission and reviewers. The staff shall:

(a) Orient and train the commission and reviewers regarding departmental policy and ***review***[~~selection~~] procedures;

(b) Make available existing standards and criteria for textbook ***evaluation***[~~selection~~]; and

(c) Provide supplies and sample textbooks for the review process.

(5)[~~(6)~~]The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

(a) Subject content, including its relationship to the ***academic expectations***[~~valued outcomes~~];

(b) Audience;

(c) Format;

(d) Readability; and

(e) Ancillary materials.

(6) On or before July 15, the State Textbook Commission shall develop general criteria, review and approve subject specific criteria, and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.

(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and programs. The committee shall submit evaluation forms ***for***[~~rating~~] each textbook or program reviewed in each of the five (5) areas, set forth in subsection ***(5)***[~~(6)~~] of this section, with comments related to strengths and weaknesses in each area.

(8) The State Textbook Commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, ***establish a***[~~select books for the~~] state multiple list of ***recommended*** textbooks ***and programs***. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the Department of Education for the cycle length of the books. For those ***materials***[~~textbooks~~] placed on the state multiple list of ***recommended*** textbooks ***and programs***, ***the Department of Education shall publish a consumer guide that includes*** summary results of the evaluations ***and shall distribute it to all public schools in the state***[~~shall be provided to the local school districts~~].

Section 4. KRS 156.410 is amended to read as follows:

(1) The chief state school officer shall prepare minimum manufacturing standards, delineate content specifications, in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12,~~[construct score cards,]~~ and formulate other criteria for use in the ***evaluation***~~[selection and adoption]~~ of textbooks ***and programs*** in Kentucky. Criteria shall require that ***all materials be suitable for use with a***~~[textbooks include the significance of the]~~ diverse ***population and be free of social, ethnic, racial, religious, age, gender, and geographic bias***~~[ethnic contributors to society]~~.

(2) It shall be the duty of the chief state school officer to prepare all necessary forms for use in the ***evaluation***~~[selection and adoption]~~ of textbooks ***and programs***, such as advertising for textbook bids; forms for bids, bonds, and contracts; and other forms.

(3) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have authority to prescribe:

(a) Administrative regulations pertaining to all textbook samples for use on the state and local levels; and

(b) Shall have authority to ***promulgate***~~[prescribe]~~ administrative regulations relating to the agents and representatives of textbooks ***and programs,*** as to the~~[number participating and the]~~ methods and procedures for use in~~[textbook]~~ adoptions on the state and local levels.

(4) The chief state school officer, on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the textbooks. The publishers, on or before July 15, of any adoption year, shall file with the chief state school officer textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The chief state school officer shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks ***and programs,*** for consideration by the State Textbook Commission indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of noncompliance.

Section 5. KRS 156.415 is amended to read as follows:

Before textbooks ***and programs*** offered for adoption and use in public schools of Kentucky may be lawfully ***recommended***~~[approved]~~ and listed by the State Textbook Commission or purchased by any board of education, the person, firm, or corporation offering the ***materials***~~[books]~~ for adoption and use shall file with the chief state school officer:

(1) Copies of all textbooks ***and programs*** that the person, firm, or corporation desires to offer for adoption and use, with a sworn statement of the list price ***and***~~[,]~~ the lowest wholesale price~~[, and the lowest exchange price, if required by the State Textbook Commission,]~~ at which each of the ***titles***~~[books]~~ is sold in any adopting unit;

(2) A statement that all the ***titles***~~[books]~~ offered for sale, adoption, ***and*** use,~~[and exchange]~~ do comply with the standards and specifications for textbooks designated by the chief state school officer as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

(3) Copies of any revision or special editions of the textbooks ***and programs*** filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price ***and***~~[,]~~ the lowest wholesale price~~[, and the lowest exchange price]~~ at which the revision or special edition is sold anywhere in the United States;

(4) A fee of five dollars ($5) for each book filed except when a series of books is filed, in which case the fee shall be five dollars ($5) for the first book and one dollar ($1) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period; ***and***

(5) A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), to be determined by the chief state school officer.

Section 6. KRS 156.433 is amended to read as follows:

(1) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall promulgate an administrative regulation identifying instructional materials eligible for purchase with state textbook funds. The regulation shall identify instructional materials which are subject to review before being ***recommended***~~[approved]~~ for use, establish a procedure for the review, and a process for adding an instructional material to the ***recommended***~~[approved]~~ list. The Department of Education may pay instructional materials reviewers an amount not to exceed ***one thousand***~~[seven hundred fifty]~~ dollars ***($1,000)***~~[($750)]~~ annually per reviewer for their services using funds from the appropriation for state textbooks.

(2) The Department of Education shall establish a list of ***recommended***~~[all approved]~~ instructional materials for the use of school personnel.

Section 7. KRS 156.435 is amended to read as follows:

(1) The State Textbook Commission shall, not later than September 20 of any year in which an adoption is to be made, select,

recommend[~~approve~~], and publish a list of books or programs in each subject and grade, taking into account the needs of the various types of students[~~, indicating the student functioning level for which the textbook or program is appropriate~~].

(2) The State Textbook Commission shall have the authority to reject any book which:

(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of the book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list;

(b) Is in noncompliance with standards and specifications set forth in KRS 156.410; or

(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.

(3) The State Textbook Commission shall have the authority to ***solicit additions for***[~~add books to~~] the state list when the list does not contain books ***or materials*** for subjects added to the state courses of study.

(4) The chief state school officer shall make and execute contracts for the ***recommended textbooks and programs***[~~selected books~~] with the publishers on or before ***May***[~~January~~] 1 following the ***establishment of the state multiple list of recommended titles***[~~approval of the books~~] selected by the commission. Except as described in KRS 156.400, all contracts shall run for six (6) years.

(5) The chief state school officer shall prepare a multiple list of ***recommended textbooks***[~~the selected books~~] or programs and publish the list ***along with a consumer guide*** and ***distribute the documents***[~~send a copy~~] to the superintendents of each county and independent school district in Kentucky on or before ***November***[~~October~~] 15 of each adoption year.

Section 8. KRS 156.437 is amended to read as follows:

The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have the authority to prescribe administrative regulations for the ***recommended*** listing by the State Textbook Commission, adoption by local adoption units, and the purchase of subject programs for the pupils in the public schools.

Section 9. KRS 156.439 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate by administrative regulations the method for calculating and distributing a district's textbook and instructional materials allocation. The district's allocation shall be used by schools to purchase:

(a) Textbooks ***and programs*** from the state ***recommended***[~~adoption~~] list;

(b) Textbooks ***and programs*** not on the state's ***recommended***[~~approved~~] list, if ***notification***[~~evidence~~] is submitted ***to the Department of Education*** that the ***material***[~~textbook~~] meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b)***,***[~~ and~~] the subject specific criteria of the textbook reviewers pursuant to KRS 156.407***(5) and compliance with the required publisher specifications***[~~(6)~~];

(c) Instructional materials, with an approved plan pursuant to subsection (2) of this section; or

(d) Any combination of the above.

(2) The district shall identify all purchases made with the textbook and instructional materials allocation and shall keep on file a plan developed by each school, in accordance with administrative regulations promulgated by the Kentucky Board of Education, for providing the necessary textbooks and instructional materials for all grades, and subject areas, including the replacement of books and materials during the six (6) year adoption period. A school may carry forward to the next school year any part of its textbook and instructional materials allocation which has been distributed to the district. If a local board does not approve a school council's plan, the council may appeal to the commissioner and an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 10. KRS 156.440 is amended to read as follows:

[~~(1) Textbook ~~]Publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their ***materials***[~~books~~] that were selected and placed on the state multiple list of ***recommended*** textbooks by the State Textbook Commission.

[~~(2) Unless otherwise provided by the General Assembly in a budget bill, the board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select from the state multiple list books or programs for each subject and grade which may be selected for use as a basal text in its school system for a period of six (6) years, and any extensions thereof.~~

~~(3) After the local board of education has adopted the basal textbooks which may be used in the district, and not later than April 20, the superintendent of schools shall send to the chief state school officer a complete list of books adopted properly certified by the chairman and secretary of the board of education.~~]

Section 11. KRS 156.445 is amended to read as follows:

(1) No textbook ***or program*** shall be used in any public school in Kentucky as a basal ***title***[~~textbook~~] unless it has been ***recommended***[~~approved~~] and listed on the state multiple list[~~ of textbooks~~] by the State Textbook Commission or unless a

school ***and*** district has ***met the notification requirements under***[~~applied for and received a waiver of this requirement from the Kentucky Board of Education pursuant to~~] subsection (2) of this section. Any changes of textbooks made by the State Textbook Commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.

(2) A[~~ local school board or~~] school council***, or if none exists, the principal through the superintendent,*** may ***notify***[~~apply to~~] the ***State Textbook Commission that it plans***[~~Kentucky Board of Education~~] to adopt a basal textbook ***or program that***[~~which~~] is not on the ***recommended***[~~multiple~~] list***,*** by submitting evidence that the ***title***[~~textbook~~] it has chosen meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b)***,***[~~ and~~] the subject specific criteria of the textbook reviewers pursuant to KRS 156.407***(5) and complies with the required publisher specifications***[~~(6)~~].

(3) In approving text materials for private and parochial schools for the purpose of KRS 156.160(3) ***the***[~~such~~] text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact that they may contain elements of religious philosophy.

Section 12. KRS 156.470 is amended to read as follows:

A copy of ***all recommended titles***[~~each textbook~~] listed by the State Textbook Commission shall remain in ***an***[~~the~~] office ***specified by***[~~of~~] the chief state school officer as an official sample for the period of the adoption[~~. After the adoption period such samples shall be sold by the Kentucky Board of Education~~].

Section 13. KRS 156.476 is amended to read as follows:

(1) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall select suitable textbooks ***and programs in an appropriate format***, which include braille textbooks, and other materials ***available***[~~printed~~] in clear type of eighteen (18) to twenty-four (24) points in the different subject areas for children with impaired vision who are attending the public schools of the Commonwealth of Kentucky in grades kindergarten through twelve (12). These ***books***[~~textbooks~~] and materials shall not be subject to the official[~~ textbook~~] bids, filing fees,[~~ textbook~~] sampling, and the stipulated list prices, lowest wholesale prices,[~~ exchange prices,~~] and the standards and specifications required for the ***books and materials***[~~textbooks~~] approved and listed by the State Textbook Commission for regular use by the pupils attending the public schools of the State of Kentucky. The Kentucky Board of Education, upon the recommendation of the chief state school officer, may ***promulgate an***[~~prescribe~~] administrative ***regulation***[~~regulations for~~] determining the pupils eligible for the books ***and materials***, the number of books ***and types of materials*** to be purchased, and the general administration of the program. The chief state school officer, subject to the approval of the Kentucky Board of Education, may purchase these books ***and materials*** and distribute them without cost to the pupils with impaired vision attending the public schools of the state. All ***books and programs***[~~textbooks~~] purchased under this section for the pupils with impaired vision are the property of the state.

(2) The Department of Education shall require any publisher of a textbook ***or program*** adopted for use in the public schools of the Commonwealth to furnish the American Printing House for the Blind with computer diskettes or tapes of those ***print materials***[~~books~~] either in the American Standard Code for Information Interchange, (ASCII), or in any other format***, either electronic or print,*** which can be readily translated into braille ***or large print***[~~by the American Printing House for the Blind~~].

Section 14. KRS 157.100 is amended to read as follows:

The ***Commonwealth of Kentucky shall provide funds for textbooks, programs, and other instructional materials that shall be distributed under an administrative regulation promulgated by the Kentucky Board of Education***[~~chief state school officer, subject to the approval of the Kentucky Board of Education, shall purchase textbooks from the publishers whose books have been adopted by the State Textbook Commission and may purchase from any publisher other related media not approved by the State Textbook Commission and distribute them~~] without cost to pupils attending grades kindergarten through twelve (12) of the public schools of the state, in the manner and upon the conditions set out in KRS 157.110 and 157.180.

Section 15. KRS 157.145 is amended to read as follows:

[~~(1)~~]The chief state school officer shall each year cause textbooks ***that***[~~which~~] have not been made obsolete by new adoptions and ***that***[~~which, in his discretion,~~] are in need of, and have valid content justifying rebinding, to be rebound ***by entering into a contract with a bindery who will perform services for districts within the Commonwealth of Kentucky at a state contract price***[~~upon request of the local districts.~~

~~(2) When the chief state school officer has received requests for rebinding, he shall prepare necessary forms to be mailed to the bindery under contract with the Commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the bindery and local district by the chief state school officer.~~

~~(3) Upon receipt of invoices from the bindery, the chief state school officer shall cause departmental purchase order forms to be prepared and mailed to the superintendent. The departmental purchase order form shall be checked against books rebound and returned to the Department of Education authorizing payment of the invoice~~].

Section 16. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 ***shall be***~~[are]~~ the property of the state. Each superintendent ***shall be***~~[making requisition for the books is]~~ custodian of the books in ***the***~~[his]~~ district. ***The superintendent***~~[He]~~ shall issue the books to the various schools in ***the***~~[his]~~ district according to ***an administrative regulation promulgated***~~[rules and regulations formulated by the chief state school officer and approved]~~ by the Kentucky Board of Education.

Section 17. KRS 157.160 is amended to read as follows:

The chief state school officer, subject to the approval of the Kentucky Board of Education, shall ***promulgate an administrative regulation***~~[make rules and regulations]~~ for the disposal of textbooks ***and programs that***~~[which]~~ will no longer be used for instruction. Each superintendent may make obsolete ***books and materials***~~[textbooks]~~ available to the residents of his district. He may publicize in the newspaper the availability of the books ***and materials*** and the procedure for obtaining them in accordance with this section. Any funds accruing from the sale of the books ***and materials*** shall be paid into the local district's account.

Section 18. KRS 157.170 is amended to read as follows:

The chief state school officer, subject to the approval of the Kentucky Board of Education, shall ***promulgate an administrative regulation***~~[make rules and regulations]~~ governing the sale of ***books and materials***~~[textbooks]~~ by superintendents to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold ***books and materials***~~[textbooks]~~ as their own property. Superintendents shall not sell ***books and materials***~~[textbooks]~~ to private or sectarian schools. Books ***and materials*** sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the local district's account.

Section 19. KRS 157.190 is amended to read as follows:

The Kentucky Department of Education shall cooperate with the Kentucky Educational Collaborative for State Agency Children to distribute funds for textbooks, programs, and instructional materials for use by children placed in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children's residential, day treatment, clinical, and group home programs.

~~[(1) The chief state school officer, subject to the approval of the Kentucky Board of Education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary and secondary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.~~

~~(2) The chief state school officer may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly maintained. If he finds anything improper about the requisitioning and use of the books, he shall report it to the Kentucky Board of Education.~~

~~(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending public schools.]~~

Section 20. The following KRS sections are repealed:

156.450 Distribution of books -- Agents.
156.455 Purchase of books from pupil moving from district.
157.120 Requisitions for books -- Shipments -- Invoices.
157.130 Regulations governing textbooks.

The House Committee Substitute No. 1 to **SB 91** is as follows:

SB 91, AN ACT relating to instructional materials.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.400 is amended to read as follows:

(1) The chief state school officer shall arrange the elementary***, middle,*** and ***high***~~[secondary]~~ school subjects included in the state courses of study as prescribed by the Kentucky Board of Education into six (6) adoption groups.

(2) Contracts for each of the six (6) adoption groups shall be for a period of six (6) years and shall be executed on a staggered basis, with one (1) group being up for adoption each year. The six (6) adoption groups shall be ***arranged by similarity of content to the extent possible, while being*** arranged as nearly equal in number and purchase cost as possible. Subjects with rapidly changing or highly technical content may be considered more frequently than once during a six (6) year cycle.

(3) The chief state school officer may delay the purchase of books due to insufficient funds, but any purchases of books shall be in accordance with KRS Chapter 156.

Section 2. KRS 156.405 is amended to read as follows:

(1) The purpose of the State Textbook Commission is to provide a ***recommended*** list of current and high quality textbooks ***and instructional materials*** to local school districts ***that***~~[, which]~~ complement the educational program in Kentucky

schools***; to provide a consumer guide to schools to aid with the selection of materials;***[~~,~~] and to provide for public participation in the ***evaluation***[~~adoption~~] process.

(2) The State Textbook Commission shall consist of the chief state school officer and ***ten (10)***[~~eleven (11)~~] appointive members. The ***ten (10)***[~~eleven (11)~~] members shall be appointed by the Kentucky Board of Education upon the recommendation of the chief state school officer for terms of four (4) years with two (2) appointments each year, except that every fourth year there shall be ***four (4)***[~~five (5)~~] appointments. No member shall be eligible to serve more than two (2) full terms consecutively. All vacancies that occur on the State Textbook Commission shall be filled in like manner for the remainder of the unexpired terms. The ***Department of Education and the*** State Textbook Commission shall receive assistance in the textbook ***evaluation***[~~selection~~] process from professionals and lay citizens who will[~~ serve on a contractual basis and~~] be referred to in this chapter as the "textbook reviewers."

(3) The State Textbook Commission shall:

(a) Select and direct the activities of the textbook reviewers who develop selection criteria and review textbooks and programs;

(b) Develop selection criteria and evaluation forms with the help of the textbook reviewers ***and Kentucky Department of Education staff*** to be used in the state level ***review***[~~selection~~] process;

(c) Approve the evaluative criteria and forms used by the commission and textbook reviewers;

(d) Review the textbook reviewers' evaluations, and textbooks or programs as it deems necessary, in order to select from them a ***recommended*** list of high quality ***materials***[~~books~~];

(e) Select, ***recommend***[~~approve~~], and publish a list of high quality textbooks ***and programs; and***

(f) Publish a consumer guide and distribute it to Kentucky public schools.

(4) The textbook reviewers shall be comprised of twelve (12) individuals for the area or areas being considered for adoption. The textbook reviewers shall be approved by the State Textbook Commission based on the recommendation of the chief state school officer.

(5) The textbook reviewers shall:

(a) Develop and submit to the commission subject specific evaluative criteria to be used in reviewing textbooks ***and programs***;

(b) Review textbooks and programs to determine those of high quality, using evaluative criteria and forms approved by the commission;

(c) Submit to the commission reviews and evaluative forms regarding reviewed textbooks and programs;[~~ and,~~]

(d) Attend meetings and training sessions as requested by the commission and the Department of Education***; and***

(e) Ensure that textbooks are free from factual error.

(6) ***(a)*** ***1.*** Eight (8) of the appointive members of the State Textbook Commission shall have had not less than five (5) ***years***[~~years'~~] teaching or supervising experience in the public schools of Kentucky and ***shall***[~~must~~] have had at the time of their appointment at least four (4) years of college training in a recognized institution of higher education.

2. Five (5) members of the commission shall be classroom teachers actively employed in the public schools of Kentucky as teachers in subject field or fields for which the commission will select books.

3. Two (2) members shall be principals, supervisors, or superintendents of public schools or public school systems.

4. One (1) member shall be a member of the faculty of a public institution of higher education engaged in teacher ***preparation***[~~education. One (1) member shall be the executive director of the Kentucky Educational Publishers Association or any other legitimate trade association of textbook publishers recognized by the Kentucky Board of Education, but shall not represent any particular publisher. This member shall have no vote but may otherwise participate in the business of the commission~~].

5. Two (2) members shall be lay citizens***, one (1) of whom shall have a child enrolled in a public school at the time of appointment***.

(b) In recommending the members of the State Textbook Commission the chief state school officer shall give due regard to representation from rural and urban areas and ***from the***[~~both~~] elementary***, middle*** and ***high***[~~secondary~~] levels when ***the***[~~both~~] educational levels are included in the subject field or fields for which adoptions are to be made[~~. The lay citizens shall have children in the public elementary or secondary schools at the time of appointment~~].

(7) Textbook reviewers shall have the following qualifications: Six (6) of the textbook reviewers shall be instructional supervisors and classroom teachers in various and appropriate grade levels primary through grade twelve (12), with experience and training in the subject areas to be reviewed. One (1) reviewer shall have expertise and training in learning theory as applied to the classroom situation. One (1) reviewer shall be a current or former university faculty member with

expertise in the content area of the textbooks to be reviewed. One (1) reviewer shall have experience and training in readability and formatting of textbooks. Three (3) reviewers shall be parents***, two (2) of whom shall have a child***[~~ of children~~] currently enrolled in public schools in Kentucky.

(8) Members of the State Textbook Commission[~~, except the trade association member,~~] shall receive fifty ($50) dollars per day and reimbursement for their actual expenses while attending commission meetings. Textbook reviewers shall receive remuneration based on the amount of textbooks and programs to be reviewed and criteria to be developed as determined by the chief state school officer. Textbook reviewers[~~ shall be hired through a personal service contract and remuneration~~] shall ***be paid one hundred dollars ($100) per day, not to exceed one thousand dollars ($1,000)***[~~not exceed a maximum of seven hundred and fifty ($750) dollars~~] annually. Textbook reviewers shall also receive reimbursement for actual expenses while attending reviewer or commission meetings.

(9) The meetings of the State Textbook Commission shall be open to the public and shall be held at least once every quarter and notice of such meeting shall be given in accordance with KRS 424.110 to 424.210.

(10) Not later than May 1 each year the chief state school officer shall call the State Textbook Commission into session. The members of the State Textbook Commission shall elect one (1) of its voting members as chairman and shall adopt administrative regulations for the procedure of the commission. The chief state school officer shall be the secretary of the commission.

Section 3. KRS 156.407 is amended to read as follows:

(1) The chief state school officer shall, not later than February 1 of each year in which an adoption is to be made, solicit applications for filling twelve (12) positions[~~ in each subject area~~] for textbook reviewers***.***[~~;~~]

(2) Solicitation shall be statewide ***for all appointments*** and include specifications which ensure candidates have professional expertise in the subject areas to be reviewed ***if appropriate for the appointment.***[~~or are parents of children currently enrolled in public schools in Kentucky;~~]

(3) The State Textbook Commission, at its first yearly meeting, shall select textbook reviewers based on a list of qualified applicants prepared by the chief state school officer and giving consideration to ***the***[~~his~~] recommendations as specified in KRS 156.405***.***[~~;~~]

(4)[~~ The contracts for the textbook reviewers shall extend until the review of textbooks for a given year is completed, but no later than October 15.~~

~~(5)~~] The Department of Education's curriculum and instruction specialists shall serve as staff to the commission and reviewers. The staff shall:

- (a) Orient and train the commission and reviewers regarding departmental policy and ***review***[~~selection~~] procedures;
- (b) Make available existing standards and criteria for textbook ***evaluation***[~~selection~~]; and
- (c) Provide supplies and sample textbooks for the review process.

(5)[~~(6)~~]The textbook reviewers shall develop subject specific criteria for textbook review and evaluation in the following textbook areas:

- (a) Subject content, including its relationship to the ***academic expectations***[~~valued outcomes~~];
- (b) Audience;
- (c) Format;
- (d) Readability;[~~ and~~]
- (e) ***Accuracy; and***
- ***(f)*** Ancillary materials.

(6) On or before July 15, the State Textbook Commission shall develop general criteria, review and approve subject specific criteria, and provide the standard criteria and evaluation forms to be used by the commission and textbook reviewers.

(7) Based upon approval of the standard criteria and evaluation forms, the textbook reviewers shall review textbooks and programs. The committee shall submit evaluation forms ***for***[~~rating~~] each textbook or program reviewed in each of the five (5) areas, set forth in subsection ***(5)***[~~(6)~~] of this section, with comments related to strengths and weaknesses in each area.

(8) The State Textbook Commission shall review the work of the textbook reviewers and based on this review and any of its own reviews of textbooks or programs, ***establish a***[~~select books for the~~] state multiple list of ***recommended*** textbooks ***and programs. The list of recommended textbooks and programs shall be free of factual error***. Copies of all evaluation forms submitted by the textbook reviewers shall be made available to commission members and maintained on file within the Department of Education for the cycle length of the books. For those ***materials***[~~textbooks~~] placed on the state multiple list of ***recommended*** textbooks ***and programs***, ***the Department of Education shall publish a consumer guide that includes*** summary results of the evaluations ***and any factual error identified in the textbooks, and shall distribute it to all public schools in the state***[~~shall be provided to the local school districts~~].

Section 4. KRS 156.410 is amended to read as follows:

(1) The chief state school officer shall prepare minimum manufacturing standards, delineate content specifications, in accordance with the curriculum requirements of the program of studies for Kentucky schools: grades K-12,[~~ construct score cards,~~] and formulate other criteria for use in the ***evaluation***[~~selection and adoption~~] of textbooks ***and programs*** in Kentucky. Criteria shall require that ***all materials be suitable for use with a***[~~textbooks include the significance of the~~] diverse ***population and be free of social, ethnic, racial, religious, age, gender, and geographic bias***[~~ethnic contributors to society~~].

(2) It shall be the duty of the chief state school officer to prepare all necessary forms for use in the ***evaluation***[~~selection and adoption~~] of textbooks ***and programs***, such as advertising for textbook bids; forms for bids, bonds, and contracts; and other forms.

(3) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have authority to prescribe:

(a) Administrative regulations pertaining to all textbook samples for use on the state and local levels; and

(b) Shall have authority to ***promulgate***[~~prescribe~~] administrative regulations relating to the agents and representatives of textbooks ***and programs,*** as to the[~~ number participating and the~~] methods and procedures for use in[~~ textbook~~] adoptions on the state and local levels.

(4) The chief state school officer, on or before May 1 prior to any adoption year, shall properly advertise the subjects for which textbook adoptions will be made and notify the different publishers of the textbooks. The publishers, on or before July 15, of any adoption year, shall file with the chief state school officer textbook samples, filing fees, textbook bids and bonds, and other specified information relative to the books that they desire to offer for adoption.

(5) The chief state school officer shall:

(a) Review the bid information submitted by the publishers;

(b) Verify that the bid complies with the specifications; and

(c) Prepare a list of textbooks ***and programs,*** for consideration by the State Textbook Commission indicating those in compliance with the standards and specifications and those not in compliance, detailing areas of noncompliance.

Section 5. KRS 156.415 is amended to read as follows:

Before textbooks ***and programs*** offered for adoption and use in public schools of Kentucky may be lawfully ***recommended***[~~approved~~] and listed by the State Textbook Commission or purchased by any board of education, the person, firm, or corporation offering the ***materials***[~~books~~] for adoption and use shall file with the chief state school officer:

(1) Copies of all textbooks ***and programs*** that the person, firm, or corporation desires to offer for adoption and use, with a sworn statement of the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price, if required by the State Textbook Commission,~~] at which each of the ***titles***[~~books~~] is sold in any adopting unit;

(2) A statement that all the ***titles***[~~books~~] offered for sale, adoption, ***and*** use,[~~ and exchange~~] do comply with the standards and specifications for textbooks designated by the chief state school officer as regards paper, binding, printing, illustrations, subject matter, and other items included in the standards and specifications;

(3) Copies of any revision or special editions of the textbooks ***and programs*** filed, with a statement describing in detail each point of difference from the regular edition filed, and the list price ***and***[~~,~~] the lowest wholesale price[~~, and the lowest exchange price~~] at which the revision or special edition is sold anywhere in the United States;

(4) A fee of five dollars ($5) for each book filed except when a series of books is filed, in which case the fee shall be five dollars ($5) for the first book and one dollar ($1) for each additional book in the series. The fee provided by this subsection shall be paid at each and every adoption period; ***and***

(5) A bond running to the Commonwealth of Kentucky, executed by a surety company authorized to do business in this state, in a sum not less than two thousand dollars ($2,000) nor more than ten thousand dollars ($10,000), to be determined by the chief state school officer.

A publisher or manufacturer of textbooks shall ensure that each copy of a textbook sold in Kentucky shall be free of factual error and shall submit to the Kentucky Board of Education an affidavit certifying any textbook the publisher offers in the state to be free of factual error at the time the publisher executes a contract.

Section 6. KRS 156.433 is amended to read as follows:

(1) The Kentucky Board of Education, upon recommendation of the chief state school officer, shall promulgate an administrative regulation identifying instructional materials eligible for purchase with state textbook funds. The regulation shall identify instructional materials which are subject to review before being ***recommended***[~~approved~~] for use, establish a procedure for the review, and a process for adding an instructional material to the ***recommended***[~~approved~~] list. The Department of Education may pay instructional materials reviewers an amount not to exceed ***one thousand***[~~seven hundred fifty~~] dollars ***($1,000)***[~~($750)~~] annually per reviewer for their services using funds from the appropriation for state textbooks.

(2) The Department of Education shall establish a list of ***recommended***[~~all approved~~] instructional materials for the use of

school personnel.

Section 7. KRS 156.435 is amended to read as follows:

(1) The State Textbook Commission shall, not later than September 20 of any year in which an adoption is to be made, select, ***recommend***[~~approve~~], and publish a list of books or programs in each subject and grade, taking into account the needs of the various types of students[~~, indicating the student functioning level for which the textbook or program is appropriate~~].

(2) The State Textbook Commission shall have the authority to reject any book which:

(a) Contains subversive material or information that is offered for listing or adoption. If the commission finds on the multiple list any book which contains subversive material or information, provided the publisher of the book has been given written notice by the secretary of the commission not less than thirty (30) days prior to the meeting, the textbook commission shall have authority to remove the book from the state multiple list;

(b) Is in noncompliance with standards and specifications set forth in KRS 156.410; or

(c) Is not of high quality in terms of the content provided, the audience addressed, the format used, the readability of material or the ancillary materials provided the teacher and students.

(3) The State Textbook Commission shall have the authority to ***solicit additions for***[~~add books to~~] the state list when the list does not contain books ***or materials*** for subjects added to the state courses of study.

(4) The chief state school officer shall make and execute contracts for the ***recommended textbooks and programs***[~~selected books~~] with the publishers on or before ***May***[~~January~~] 1 following the ***establishment of the state multiple list of recommended titles***[~~approval of the books~~] selected by the commission. Except as described in KRS 156.400, all contracts shall run for six (6) years.

(5) The chief state school officer shall prepare a multiple list of ***recommended textbooks***[~~the selected books~~] or programs and publish the list ***along with a consumer guide*** and ***distribute the documents***[~~send a copy~~] to the superintendents of each county and independent school district in Kentucky on or before ***November***[~~October~~] 15 of each adoption year.

Section 8. KRS 156.437 is amended to read as follows:

The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall have the authority to prescribe administrative regulations for the ***recommended*** listing by the State Textbook Commission, adoption by local adoption units, and the purchase of subject programs for the pupils in the public schools.

Section 9. KRS 156.439 is amended to read as follows:

(1) The Kentucky Board of Education shall promulgate by administrative regulations the method for calculating and distributing a district's textbook and instructional materials allocation. The district's allocation shall be used by schools to purchase:

(a) Textbooks ***and programs*** from the state ***recommended***[~~adoption~~] list;

(b) Textbooks ***and programs*** not on the state's ***recommended***[~~approved~~] list, if ***notification***[~~evidence~~] is submitted ***to the Department of Education*** that the ***material***[~~textbook~~] meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b)***,***[~~ and~~] the subject specific criteria of the textbook reviewers pursuant to KRS 156.407***(5) and compliance with the required publisher specifications***[~~(6)~~];

(c) Instructional materials, with an approved plan pursuant to subsection (2) of this section; or

(d) Any combination of the above.

(2) The district shall identify all purchases made with the textbook and instructional materials allocation and shall keep on file a plan developed by each school, in accordance with administrative regulations promulgated by the Kentucky Board of Education, for providing the necessary textbooks and instructional materials for all grades, and subject areas, including the replacement of books and materials during the six (6) year adoption period. A school may carry forward to the next school year any part of its textbook and instructional materials allocation which has been distributed to the district. If a local board does not approve a school council's plan, the council may appeal to the commissioner and an administrative hearing shall be conducted in accordance with KRS Chapter 13B.

Section 10. KRS 156.440 is amended to read as follows:

[~~(1) Textbook~~]Publishers, upon the request of the superintendents of the county and independent school districts, shall furnish to the local boards of education the requested sample copies of their ***materials***[~~books~~] that were selected and placed on the state multiple list of ***recommended*** textbooks by the State Textbook Commission.

[~~(2) Unless otherwise provided by the General Assembly in a budget bill, the board of education of each county and independent school district shall, upon the recommendation of its superintendent and not later than April 15 of any adoption year, select from the state multiple list books or programs for each subject and grade which may be selected for use as a basal text in its school system for a period of six (6) years, and any extensions thereof.~~

~~(3) After the local board of education has adopted the basal textbooks which may be used in the district, and not later than April 20, the superintendent of schools shall send to the chief state school officer a complete list of books adopted properly certified by the chairman and secretary of the board of education.~~]

Section 11. KRS 156.445 is amended to read as follows:

(1) No textbook ***or program*** shall be used in any public school in Kentucky as a basal ***title***[~~textbook~~] unless it has been ***recommended***[~~approved~~] and listed on the state multiple list[~~ of textbooks~~] by the State Textbook Commission or unless a school ***and*** district has ***met the notification requirements under***[~~applied for and received a waiver of this requirement from the Kentucky Board of Education pursuant to~~] subsection (2) of this section. Any changes of textbooks made by the State Textbook Commission shall not become effective until grades and classes of the respective county and independent school districts have completed work for which the adopted book then in use was originally intended. Nothing in this section shall apply to the supplementary books that are needed from time to time.

(2) A[~~ local school board or~~] school council***, or if none exists, the principal through the superintendent,*** may ***notify***[~~apply to~~] the ***State Textbook Commission that it plans***[~~Kentucky Board of Education~~] to adopt a basal textbook ***or program that***[~~which~~] is not on the ***recommended***[~~multiple~~] list***,*** by submitting evidence that the ***title***[~~textbook~~] it has chosen meets the selection criteria of the State Textbook Commission in KRS 156.405(3)(b)***,***[~~ and~~] the subject specific criteria of the textbook reviewers pursuant to KRS 156.407***(5) and complies with the required publisher specifications***[~~(6)~~].

(3) In approving text materials for private and parochial schools for the purpose of KRS 156.160(3) ***the***[~~such~~] text materials shall be approved if they are comprehensive and appropriate to the grade level in question notwithstanding the fact that they may contain elements of religious philosophy.

Section 12. KRS 156.470 is amended to read as follows:

A copy of ***all recommended titles***[~~each textbook~~] listed by the State Textbook Commission shall remain in ***an***[~~the~~] office ***specified by***[~~of~~] the chief state school officer as an official sample for the period of the adoption[~~. After the adoption period such samples shall be sold by the Kentucky Board of Education~~].

Section 13. KRS 156.476 is amended to read as follows:

(1) The Kentucky Board of Education, upon the recommendation of the chief state school officer, shall select suitable textbooks ***and programs in an appropriate format***, which include braille textbooks, and other materials ***available***[~~printed~~] in clear type of eighteen (18) to twenty-four (24) points in the different subject areas for children with impaired vision who are attending the public schools of the Commonwealth of Kentucky in grades kindergarten through twelve (12). These ***books***[~~textbooks~~] and materials shall not be subject to the official[~~ textbook~~] bids, filing fees,[~~ textbook~~] sampling, and the stipulated list prices, lowest wholesale prices,[~~ exchange prices,~~] and the standards and specifications required for the ***books and materials***[~~textbooks~~] approved and listed by the State Textbook Commission for regular use by the pupils attending the public schools of the State of Kentucky. The Kentucky Board of Education, upon the recommendation of the chief state school officer, may ***promulgate an***[~~prescribe~~] administrative ***regulation***[~~regulations for~~] determining the pupils eligible for the books ***and materials***, the number of books ***and types of materials*** to be purchased, and the general administration of the program. The chief state school officer, subject to the approval of the Kentucky Board of Education, may purchase these books ***and materials*** and distribute them without cost to the pupils with impaired vision attending the public schools of the state. All ***books and programs***[~~textbooks~~] purchased under this section for the pupils with impaired vision are the property of the state.

(2) The Department of Education shall require any publisher of a textbook ***or program*** adopted for use in the public schools of the Commonwealth to furnish the American Printing House for the Blind with computer diskettes or tapes of those ***print materials***[~~books~~] either in the American Standard Code for Information Interchange, (ASCII), or in any other format***, either electronic or print,*** which can be readily translated into braille ***or large print***[~~by the American Printing House for the Blind~~].

Section 14. KRS 157.100 is amended to read as follows:

The ***Commonwealth of Kentucky shall provide funds for textbooks, programs, and other instructional materials that shall be distributed under an administrative regulation promulgated by the Kentucky Board of Education***[~~chief state school officer, subject to the approval of the Kentucky Board of Education, shall purchase textbooks from the publishers whose books have been adopted by the State Textbook Commission and may purchase from any publisher other related media not approved by the State Textbook Commission and distribute them~~] without cost to pupils attending grades kindergarten through twelve (12) of the public schools of the state, in the manner and upon the conditions set out in KRS 157.110 and 157.180.

Section 15. KRS 157.145 is amended to read as follows:

[~~(1)~~]The chief state school officer shall each year cause textbooks ***that***[~~which~~] have not been made obsolete by new adoptions and ***that***[~~which, in his discretion,~~] are in need of, and have valid content justifying rebinding, to be rebound ***by entering into a contract with a bindery who will perform services for districts within the Commonwealth of Kentucky at a state contract price***[~~upon request of the local districts.~~

~~(2) When the chief state school officer has received requests for rebinding, he shall prepare necessary forms to be mailed to the bindery under contract with the Commonwealth of Kentucky. Instructions for pick-up and delivery are to be given to the bindery and local district by the chief state school officer.~~

~~(3) Upon receipt of invoices from the bindery, the chief state school officer shall cause departmental purchase order forms to be prepared and mailed to the superintendent. The departmental purchase order form shall be checked against books~~

~~rebound and returned to the Department of Education authorizing payment of the invoice]~~.

Section 16. KRS 157.150 is amended to read as follows:

All textbooks purchased under the provisions of KRS 157.100 ***shall be***~~[are]~~ the property of the state. Each superintendent ***shall be***~~[making requisition for the books is]~~ custodian of the books in ***the***~~[his]~~ district. ***The superintendent***~~[He]~~ shall issue the books to the various schools in ***the***~~[his]~~ district according to ***an administrative regulation promulgated***~~[rules and regulations formulated by the chief state school officer and approved]~~ by the Kentucky Board of Education.

Section 17. KRS 157.160 is amended to read as follows:

The chief state school officer, subject to the approval of the Kentucky Board of Education, shall ***promulgate an administrative regulation***~~[make rules and regulations]~~ for the disposal of textbooks ***and programs that***~~[which]~~ will no longer be used for instruction. Each superintendent may make obsolete ***books and materials***~~[textbooks]~~ available to the residents of his district. He may publicize in the newspaper the availability of the books ***and materials*** and the procedure for obtaining them in accordance with this section. Any funds accruing from the sale of the books ***and materials*** shall be paid into the local district's account.

Section 18. KRS 157.170 is amended to read as follows:

The chief state school officer, subject to the approval of the Kentucky Board of Education, shall ***promulgate an administrative regulation***~~[make rules and regulations]~~ governing the sale of ***books and materials***~~[textbooks]~~ by superintendents to pupils, parents, or guardians of pupils attending the public schools of the state who desire to hold ***books and materials***~~[textbooks]~~ as their own property. Superintendents shall not sell ***books and materials***~~[textbooks]~~ to private or sectarian schools. Books ***and materials*** sold under this section shall be sold at the retail contract price. Funds accruing from the sales shall be paid into the local district's account.

Section 19. KRS 157.190 is amended to read as follows:

The Kentucky Department of Education shall cooperate with the Kentucky Educational Collaborative for State Agency Children to distribute funds for textbooks, programs, and instructional materials for use by children placed in facilities and programs operated or contracted by the Department of Juvenile Justice or the Cabinet for Families and Children's residential, day treatment, clinical, and group home programs.

~~[(1) The chief state school officer, subject to the approval of the Kentucky Board of Education, shall provide basally adopted textbooks without cost to all children between the ages of six (6) and eighteen (18) who are confined in any state correctional institution in this state and who are regularly enrolled in classes of elementary and secondary grades. The textbooks shall be provided upon requisitions made by the person or persons in charge of the correctional institution.~~

~~(2) The chief state school officer may have an investigation made, at any time, to determine the need for the number and kinds of books requisitioned and to determine if the books are being properly maintained. If he finds anything improper about the requisitioning and use of the books, he shall report it to the Kentucky Board of Education.~~

~~(3) The books provided pursuant to this section shall be paid for out of the appropriations for the purchase of free textbooks for pupils attending public schools.]~~

Section 20. The following KRS sections are repealed:

156.450 Distribution of books -- Agents.
156.455 Purchase of books from pupil moving from district.
157.120 Requisitions for books -- Shipments -- Invoices.
157.130 Regulations governing textbooks.

The Committee on Transportation reported **HB 736**, with Committee Substitute and Committee Amendment attached thereto, **HB 768, HB 818**, with Committee Amendments attached thereto, **HB 870, HB 914**, with Committee Substitute attached thereto, **HJR 128**, and **HJR 131**, with Committee Substitute and Committee Amendment attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 736, AN ACT relating to railroad employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) In any circumstance involving an accident on a railroad, or any alleged violation of law involving the operation of a train, in which the engineer or any other train crew member is detained by any law enforcement officer investigating the accident or alleged violation of law, the engineer and other train crew members shall not be required to show the law enforcement officer the person's operator's license issued under KRS Chapter 186.

(2) The engineer and other train crew members shall be required to provide the law enforcement officer a photo identification issued by the railroad or any other state or federal authority, other than an operator's license issued under KRS Chapter 186.

The Committee Substitute No. 1 to **HB 736** is as follows:

HB 736, AN ACT relating to railroad employees.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 277 IS CREATED TO READ AS FOLLOWS:

(1) In any circumstance involving an accident on a railroad, or any alleged violation of law involving the operation of a train, in which the engineer or any other train crew member is detained by any law enforcement officer investigating the accident or alleged violation of law:

(a) The engineer and other train crew members shall not be required to show the law enforcement officer the person's operator's license issued under KRS Chapter 186; and

(b) The law enforcement officer shall be prohibited from requiring an engineer or other train crew member to show the law enforcement officer the person's operator's license issued under KRS Chapter 186.

Section 2. KRS 189.635 is amended to read as follows:

(1) The Justice Cabinet, Department of State Police, shall be responsible for maintaining a reporting system for all vehicle accidents which occur within the Commonwealth. Such accident reports shall be utilized for such purposes as will improve the traffic safety program in the Commonwealth involving the collection, processing, storing, and dissemination of such data and the establishment of procedures by administrative regulations to insure that uniform definitions, classifications, and other federal requirements are in compliance.

(2) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in fatal or nonfatal personal injury to any person or damage to the vehicle rendering the vehicle inoperable shall be required to immediately notify a law enforcement officer having jurisdiction. In the event the operator fails to notify or is incapable of notifying a law enforcement officer having jurisdiction, such responsibility shall rest with the owner of the vehicle or any occupant of the vehicle at the time of the accident. A law enforcement officer having jurisdiction shall investigate the accident and file a written report of the accident with his law enforcement agency.

(3) Every law enforcement agency whose officers investigate a vehicle accident of which a report must be made as required in this chapter shall file a report of the accident with the Department of State Police within ten (10) days after investigation of the accident upon forms supplied by the department.

(4) Any person operating a vehicle on the highways of this state who is involved in an accident resulting in any property damage exceeding five hundred dollars ($500) in which an investigation is not conducted by a law enforcement officer shall file a written report of the accident with the Department of State Police within ten (10) days of occurrence of the accident upon forms provided by the department.

(5) All accident reports filed with the Department of State Police in compliance with subsection (4) above shall remain confidential except that the department may disclose the identity of a person involved in an accident when his identity is not otherwise known or when he denies his presence at an accident. ***Except as provided in subsection (7) of this section,*** all other accident reports required by this section, and the information contained in the reports, shall be confidential and exempt from public disclosure except when produced pursuant to a properly executed subpoena or court order, or except pursuant to subsection (6) of this section. These reports shall be made available only to the parties to the accident, the parents or guardians of a minor who is party to the accident, and the insurers of any party who is the subject of the report, or to the attorneys of the parties.

(6) The report shall be made available to a news-gathering organization, solely for the purpose of publishing or broadcasting the news. The news-gathering organization shall not use or distribute the report, or knowingly allow its use or distribution, for a commercial purpose other than the news-gathering organization's publication or broadcasting of the information in the report. A newspaper, periodical, or radio or television station shall not be held to have used or knowingly allowed the use of the report for a commercial purpose merely because of its publication or broadcast.

(7) The motor vehicle insurers of any train engineer or other train crew member involved in an accident on a railroad while functioning in their professional capacity shall be prohibited from obtaining a copy of any accident report filed on the accident under this section without written consent from the individual the company insures. Insurance companies issuing motor vehicle policies in the Commonwealth shall be prohibited from raising a policyholder's rates solely because the policyholder, in his or her professional capacity, is a train engineer or other train crew member involved in an accident on a railroad.

The Committee Amendment No. 1 Title to **HB 736** is as follows:

On page 1, by amending the title to read as follows:

"AN ACT relating to accidents.".

HB 768, AN ACT relating to household goods certificates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 281.624 is amended to read as follows:

(1) The term "household goods certificate" means a certificate granting authority to operate as an irregular route common carrier transporting personal effects and property used or to be used in a dwelling, when a part of the equipment or supply of the dwelling, and similar property if the transportation of the effects or property is:

(a)[~~(1)~~]Arranged and paid for by the householder, including transportation of property from a factory or store when the property is purchased by the householder with intent to use in his or her dwelling; or

(b)[~~(2)~~]Arranged and paid for by another party.

(2) The department, in granting a motor carrier authority under KRS 281.630(1), shall have the right to designate the situs of the motor carrier's office and terminal facilities from which the carrier may operate. A designation shall not deny the motor carrier the use of its offices and terminal facilities in existence at the time of the grant of the authority. Any subsequent change of situs or additional situs shall only be granted after application by the motor carrier to the department in the same manner as other applications made under KRS 281.625.

HB 818, AN ACT relating to highways and making an appropriation therefor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The Adopt-a-Highway Advisory Committee is hereby created to:

(a) Coordinate state and local roadside litter cleanup programs;

(b) Establish priorities for the expenditure of funds in the adopt-a-highway fund created under Section 2 of this Act;

(c) Develop public education programs and literature on roadside litter cleanup programs;

(d) Promote the solicitation of gifts and grants from private entities for the adopt-a-highway fund created under Section 2 of this Act;

(e) Recognize civic groups that have achieved distinction in the cleanup of roadside litter;

(f) Receive and review applications for nonbinding coordination of local roadside littler control programs; and

(g) Perform other duties as may be assigned by the Secretary of the Transportation Cabinet.

(2) The membership of the Adopt-a-Highway Advisory Committee shall be as follows:

(a) The Secretary of the Transportation Cabinet or the secretary's designee;

(b) The Secretary of the Natural Resources and Environmental Protection Cabinet or the secretary's designee;

(c) The Commissioner of the Department of Local Government or the commissioner's designee; and

(d) Four (4) citizen members appointed by the Governor.

(3) The initial appointments of citizen members appointed under subsection (2) of this section shall be made on a staggered basis. After the initial appointment, citizen members shall serve a four (4) year term. Citizen members may be reappointed. A vacancy in an unexpired term shall be filled for the unexpired portion of the term in the same manner as the original appointment to that term.

(4) The chairperson of the Adopt-a-Highway Advisory Committee shall be elected by a majority vote of the members of the committee and shall serve a one (1) year term. A person may be elected to consecutive terms as chairperson of the committee.

(5) Five (5) members of the Adopt-a-Highway Advisory Committee shall constitute a quorum and a quorum shall be required for the committee to conduct any proceeding or take any official action. The committee shall be required to maintain written records of all of its meetings.

(6) The members of the Adopt-a-Highway Advisory Committee shall serve without compensation but shall be reimbursed the reasonable and necessary expenses incurred by the members in performing the work of the committee.

SECTION 2. A NEW SECTION OF KRS CHAPTER 176 IS CREATED TO READ AS FOLLOWS:

(1) The "Adopt-a-Highway Fund" is a special fund created in the State Treasury. The fund may receive state appropriations, gifts, grants, and federal funds and shall include earnings from investments of moneys in the fund. Any fund balance at the close of the fiscal year shall not lapse but shall be carried forward to the next fiscal year, and moneys in this fund shall be continuously appropriated only for the purposes specified in this section.

(2) The Transportation Cabinet may receive and accept grants, contributions of money, property, labor, or other things of value from any governmental agency, nonprofit organization, or private business to be used for the adopt-a-highway

litter reduction program. Moneys received under this section shall be deposited in the adopt-a-highway fund.

(3) The Transportation Cabinet shall administer the fund and may make funds available for:

(a) Roadside litter cleanup;

(b) Litter control organizations as the department deems appropriate; and

(c) Public educational programs concerning litter problems.

(4) The Transportation Cabinet shall coordinate its litter reduction efforts with the Adopt-a-Highway Advisory Committee created under Section 1 of this Act.

(5) The Transportation Cabinet, beginning October 1, 2001, and by October 1 of each year thereafter, shall report to the General Assembly's Interim Joint Committee on Agriculture and Natural Resources, or its successor committee, on the collection and use of money for the adopt-a-highway fund and on the activities of the highway litter reduction program.

Section 3. There is appropriated out of the general fund of the State Treasury five hundred fifty thousand dollars ($500,000) to the Adopt-a-Highway Fund created under Section 2 of this Act during each year of the biennium for the purpose of carrying out the provisions of Section 2 of this Act.

The Committee Amendment No. 1 to **HB 818** is as follows:

On Page 3, by deleting lines 14 to 17 in their entirety.

The Committee Amendment No. 2 Title to **HB 818** is as follows:

By amending the title to read: "AN ACT relating to highways."

HB 870, AN ACT relating to a special license plate to benefit the Kentucky Chapter of the National Wild Turkey Federation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 186 IS CREATED TO READ AS FOLLOWS:

(1) Any person who complies with the provisions of KRS 186.186 and who can provide proof of membership in the National Wild Turkey Federation may apply for a National Wild Turkey Federation license plate.

(2) A National Wild Turkey Federation license plate shall be the color and design selected by the Kentucky Chapter of the National Wild Turkey Federation and approved by the Transportation Cabinet.

(3) In addition to the fees required by KRS 186.186, a person initially applying for a National Wild Turkey Federation license plate shall pay a ten dollar ($10) fee that shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230. A person applying for an annual renewal registration decal for a National Wild Turkey Federation license plate shall, in addition to the renewal fee established in KRS 186.186(2), pay a ten dollar ($10) fee. The ten dollar ($10) fee shall be collected by the county clerk and forwarded by the clerk to the Transportation Cabinet under the provisions of KRS 186.230.

(4) The additional ten dollar ($10) initial fee and the additional ten dollar ($10) renewal fee collected under subsection (3) of this section shall be forwarded quarterly by the Transportation Cabinet to the Kentucky Chapter of the National Wild Turkey Federation for use in education programs dedicated to conserving wild turkeys and wild turkey habitat enhancement and preserving hunting traditions.

HB 914, AN ACT relating to parking regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) *A*[~~No~~] person shall *not* stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) ***A***[~~No~~] vehicle shall ***not*** be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) ***A***[~~No~~] person shall ***not*** stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) ***A***[~~No~~] person shall ***not*** move a vehicle not lawfully under his control into any such prohibited area.

(7) ***A person shall not stop or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, at any place where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane.***

(8) A local government or property owner shall not allow vehicles to stop or park on a portion of a highway designated as a fire lane, except as provided for in subsection (9) of this section.

(9) The restrictions in ***subsections***[~~subsection~~] (5)(e) ***and (7)*** of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, ***subsections (1) to (6) of KRS*** 189.450***, KRS 189.456*** to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand

dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(30) Any person who violates the provisions of subsections (7) or (8) of Section 1 of this Act shall be fined one hundred dollars ($100) for the first offense, two hundred fifty dollars ($250) for the second offense, and five hundred dollars ($500) for each subsequent offense.

The Committee Substitute No. 1 to **HB 914** is as follows:

HB 914, AN ACT relating to parking regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 189.450 is amended to read as follows:

(1) ***A***~~[No]~~ person shall ***not*** stop a vehicle, leave it standing or cause it to stop or to be left standing upon any portion of the roadway; provided, however, that this section shall not be construed to prevent parking in front of a private residence off

the roadway or street in a city or suburban area where such parking is otherwise permitted, as long as the vehicle so parked does not impede the flow of traffic. This subsection shall not apply to:

(a) A vehicle that has been disabled on the right-of-way of such a highway in such a manner and to such extent that it is impossible to avoid the occupation of the shoulder of a state-maintained highway or impracticable to remove it from the shoulder of the highway until repairs have been made or sufficient help obtained for its removal. In no event shall a disabled vehicle remain on the shoulder of a state-maintained highway for twenty-four (24) hours or more;

(b) Motor vehicles when required to stop in obedience to the provisions of any section of the Kentucky Revised Statutes or any traffic ordinance, regulation or sign or the command of any peace officer;

(c) Vehicles operating as common carriers of passengers for hire and school buses taking passengers on such vehicle or discharging passengers therefrom, provided that no such vehicle shall stop for such purposes at a place on the highway which does not afford reasonable visibility to approaching motor vehicles from both directions; or

(d) Any vehicle required to stop by reason of an obstruction to its progress.

(2) When any police officer finds a vehicle standing upon such a highway in violation of this section, he may move or cause to be moved the vehicle, or require the operator or other person in charge of the vehicle to move it. The police officer may cause the vehicle to be removed by ordering any person engaged in the business of storing or towing motor vehicles to remove the vehicle to a site chosen by such person. Ownership of the vehicle shall be determined by the police officer's enforcement agency through the vehicle's license plates, serial number or other means of determining ownership. As soon as practicable, the police officer's enforcement agency shall notify the owner by mail that the vehicle was illegally upon public property; the name and address of the storage facility where the vehicle is located; that removal of the vehicle from the storage facility will involve payment of towing and storage charges; and that the vehicle may be sold pursuant to the provisions of KRS 376.275 if not claimed within sixty (60) days. No notification shall be required if ownership cannot be determined. In the event of a sale pursuant to KRS 376.275, the state shall receive any proceeds after the satisfaction of all liens placed on the vehicle.

(3) ***A***[~~No~~] vehicle shall ***not*** be parked, stopped, or allowed to stand on the shoulders of any toll road, interstate highway, or other fully controlled access highway, including ramps thereto, nor shall any vehicle registered at a gross weight of over forty-four thousand (44,000) pounds be parked, stopped or allowed to stand on the shoulders of any state-maintained highway except that in the case of emergency, or in response to a peace officer's signal, vehicles shall be permitted to stop on the shoulders to the right of the traveled way with all wheels and projecting parts of the vehicles, including the load, completely clear of the traveled way. Parking of any vehicle which is disabled on the shoulders of a toll road, interstate highway, other fully controlled access highway, including ramps thereto, or any state-maintained highway not mentioned in this section for twenty-four (24) hours continuously is prohibited and vehicles violating this provision may be towed away at the cost of the owner.

(4) When any police officer finds a vehicle unattended upon any bridge or causeway or in a tunnel where the vehicle constitutes an obstruction to traffic, the officer may provide for the removal of the vehicle to the nearest garage or other place of safety as provided in subsection (2) of this section.

(5) ***A***[~~No~~] person shall ***not*** stop or park a vehicle except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, in the following places:

(a) On a sidewalk;

(b) In front of sidewalk ramps provided for persons with disabilities;

(c) In front of a public or private driveway;

(d) Within an intersection;

(e) At any place where official signs prohibit stopping or parking; or

(f) Within thirty (30) feet upon the approach to any flashing beacon, stop sign or traffic control signal located at the side of a roadway.

(6) ***A***[~~No~~] person shall ***not*** move a vehicle not lawfully under his control into any such prohibited area.

(7) ***(a) A person shall not stop or park a vehicle, except when necessary to avoid conflict with other traffic or in compliance with the directions of a police officer or traffic control device, at any place where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane.***

(b) A person shall not place any sign or other obstruction at any place where local ordinances or police regulations prohibit parking on a highway for the purpose of creating a fire lane.

(8) A local government or property owner shall not allow vehicles to stop or park on a portion of a highway designated as a fire lane, except as provided for in subsection (9) of this section.

(9) The restrictions in ***subsections***[~~subsection~~] (5)(e) ***and (7)*** of this section shall not apply to sheriffs and their deputies or police officers when operating properly identified vehicles during performance of their official duties.

Section 2. KRS 189.990 is amended to read as follows:

(1) Any person who violates any of the provisions of KRS 189.020 to 189.040, subsections (1), (2), and (5) of KRS 189.050, KRS 189.060 to 189.080, subsections (1) to (3) of KRS 189.090, KRS 189.100, 189.110, 189.130 to 189.160, subsections (2) to (4) of KRS 189.190, KRS 189.200, 189.290, 189.300 to 189.360, KRS 189.380, KRS 189.400 to 189.430, ***subsections (1) to (6) of KRS*** 189.450, ***KRS 189.456*** to 189.480, subsection (1) of KRS 189.520, KRS 189.540, KRS 189.570 to 189.630, except subsection (1) of KRS 189.580, KRS 189.345, subsection (4) of KRS 189.456, and 189.960 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense. Any person who violates subsection (1) of KRS 189.580 shall be fined not less than twenty dollars ($20) nor more than two thousand dollars ($2,000) or imprisoned in the county jail for not more than one (1) year, or both. Any person who violates paragraph (c) of subsection (5) of KRS 189.390 shall be fined not less than eleven dollars ($11) nor more than thirty dollars ($30). Neither court costs nor fees shall be taxed against any person violating paragraph (c) of subsection (5) of KRS 189.390.

(2) (a) Any person who violates the weight provisions of KRS 189.212, 189.221, 189.222, 189.226, 189.230, 189.270, or 189.271 shall be fined two cents ($0.02) per pound for each pound of excess load when the excess is two thousand (2,000) pounds or less, three cents ($0.03) per pound when the excess exceeds two thousand (2,000) pounds and is three thousand (3,000) pounds or less, five cents ($0.05) per pound when the excess exceeds three thousand (3,000) pounds and is four thousand (4,000) pounds or less, seven cents ($0.07) per pound when the excess exceeds four thousand (4,000) pounds and is five thousand (5,000) pounds or less, and nine cents ($0.09) per pound when the excess exceeds five thousand (5,000) pounds, but in no case shall the fine be less than sixty dollars ($60).

(b) Any person who violates any provision of subsections (3) and (4) of KRS 189.050, subsection (4) of KRS 189.090, KRS 189.221 to 189.230, 189.270, 189.280, 189.490, or the dimension provisions of KRS 189.212, for which another penalty is not specifically provided, shall be guilty of a misdemeanor and shall be fined not less than ten dollars ($10) nor more than five hundred dollars ($500).

(c) Nothing in this subsection or in KRS 189.221 to 189.228 shall be deemed to prejudice or affect the authority of the Department of Vehicle Regulation to suspend or revoke certificates of common carriers, permits of contract carriers, or drivers' or chauffeurs' licenses, for any violation of KRS 189.221 to 189.228 or any other act applicable to motor vehicles, as provided by law.

(3) (a) Any person who violates subsection (1) of KRS 189.190 shall be fined not more than fifteen dollars ($15).

(b) Any person who violates subsection (5) of KRS 189.190 shall be fined not less than thirty-five dollars ($35) nor more than two hundred dollars ($200).

(4) (a) Any person who violates subsection (1) of KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(b) Any peace officer who fails, when properly informed, to enforce KRS 189.210 shall be fined not less than twenty-five dollars ($25) nor more than one hundred dollars ($100).

(c) All fines collected under this subsection, after payment of commissions to officers entitled thereto, shall go to the county road fund if the offense is committed in the county, or to the city street fund if committed in the city.

(5) Any person who violates KRS 189.370 shall for the first offense be fined not less than one hundred dollars ($100) nor more than two hundred dollars ($200) or imprisoned not less than thirty (30) days nor more than sixty (60) days, or both. For each subsequent offense occurring within three (3) years, the person shall be fined not less than three hundred dollars ($300) nor more than five hundred dollars ($500) or imprisoned not less than sixty (60) days nor more than six (6) months, or both. The minimum fine for this violation shall not be subject to suspension. A minimum of six (6) points shall be assessed against the driving record of any person convicted.

(6) Any person who violates KRS 189.500 shall be fined not more than fifteen dollars ($15) in excess of the cost of the repair of the road.

(7) Any person who violates KRS 189.510 or KRS 189.515 shall be fined not less than twenty dollars ($20) nor more than fifty dollars ($50).

(8) Any peace officer who violates subsection (2) of KRS 189.520 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100).

(9) Any person who violates KRS 189.530 shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned not less than thirty (30) days nor more than twelve (12) months, or both.

(10) Any person who violates any of the provisions of KRS 189.550 shall be guilty of a Class B misdemeanor.

(11) Any person who violates subsection (2) of KRS 189.560 shall be fined not less than thirty dollars ($30) nor more than one hundred dollars ($100) for each offense.

(12) The fines imposed by paragraph (a) of subsection (3) and subsections (6) and (7) of this section shall, in the case of a public highway, be paid into the county road fund, and, in the case of a privately owned road or bridge, be paid to the

owner. These fines shall not bar an action for damages for breach of contract.

(13) Any person who violates any of the provisions of KRS 189.120 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(14) Any person who violates any provision of KRS 189.575 shall be fined not less than twenty dollars ($20) nor more than twenty-five dollars ($25).

(15) Any person who violates subsection (2) of KRS 189.231 shall be fined not less than twenty dollars ($20) nor more than one hundred dollars ($100) for each offense.

(16) Any person who violates restrictions or regulations established by the secretary of transportation pursuant to subsection (3) of KRS 189.231 shall, upon first offense, be fined one hundred dollars ($100) and, upon subsequent convictions, be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500) or imprisoned for thirty (30) days, or both.

(17) (a) Any person who violates any of the provisions of KRS 189.565 shall be guilty of a Class B misdemeanor.

(b) In addition to the penalties prescribed in paragraph (a) of this subsection, in case of violation by any person in whose name the vehicle used in the transportation of inflammable liquids or explosives is licensed, the person shall be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500). Each violation shall constitute a separate offense.

(18) Any person who abandons a vehicle upon the right-of-way of a state highway for three (3) consecutive days shall be fined not less than thirty-five dollars ($35) nor more than one hundred dollars ($100), or imprisoned for not less than ten (10) days nor more than thirty (30) days.

(19) Every person violating KRS 189.393 shall be guilty of a Class B misdemeanor, unless the offense is being committed by a defendant fleeing the commission of a felony offense which the defendant was also charged with violating and was subsequently convicted of that felony, in which case it is a Class A misdemeanor.

(20) Any law enforcement agency which fails or refuses to forward the reports required by KRS 189.635 shall be subject to the penalties prescribed in KRS 17.157.

(21) A person who elects to operate a bicycle in accordance with any regulations adopted pursuant to KRS 189.287 and who willfully violates a provision of a regulation shall be fined not less than ten dollars ($10) nor more than one hundred dollars ($100). A person who operates a bicycle without complying with any regulations adopted pursuant to KRS 189.287 or vehicle safety statutes shall be prosecuted for violation of the latter.

(22) Any person who violates KRS 189.860 shall be fined not more than five hundred dollars ($500) or imprisoned for not more than six (6) months, or both.

(23) Any person who violates KRS 189.754 shall be fined not less than twenty-five dollars ($25) nor more than three hundred dollars ($300).

(24) Any person who violates the provisions of KRS 189.125(3) shall be fined fifty dollars ($50).

(25) Any person who violates the provisions of KRS 189.125(6) shall be fined an amount not to exceed twenty-five dollars ($25).

(26) Any person who violates any of the provisions of KRS 189.125(3), KRS 189.290, KRS 189.300, KRS 189.340, KRS 189.345, KRS 189.370, KRS 189.393, or KRS 189.505, shall, in addition to any other fine imposed by this chapter, pay an additional fee of ten dollars ($10). Funds collected pursuant to this subsection shall be deposited in the traumatic brain injury trust fund, created pursuant to KRS 211.476, within fourteen (14) days after the end of each quarter, to be used for the purposes set forth in KRS 211.470 to 211.478.

(27) Fines levied pursuant to this chapter shall be assessed in the manner required by KRS 534.020, in amounts consistent with this chapter. Nonpayment of fines shall be governed by KRS 534.060.

(28) A licensed driver under the age of eighteen (18) charged with a moving violation pursuant to this chapter as the driver of a motor vehicle may be referred, prior to trial, by the court to a diversionary program. The diversionary program under this subsection shall consist of one (1) or both of the following:

(a) Execution of a diversion agreement which prohibits the driver from operating a vehicle for a period not to exceed forty-five (45) days and which allows the court to retain the driver's operator's license during this period; and

(b) Attendance at a driver improvement clinic established pursuant to KRS 186.574. If the person completes the terms of this diversionary program satisfactorily the violation shall be dismissed.

(29) Any person who violates the provisions of KRS 189.285 shall have his or her operator's license suspended for a period of ninety (90) days and be fined not less than one hundred dollars ($100) nor more than five hundred dollars ($500).

(30) Any person who violates the provisions of subsections (7) or (8) of Section 1 of this Act shall be fined one hundred dollars ($100) for the first offense, two hundred fifty dollars ($250) for the second offense, and five hundred dollars ($500) for each subsequent offense.

HJR 128, A JOINT RESOLUTION naming the "Robert L. Draper Way" in Muhlenberg County.

WHEREAS, Robert L. Draper was born on June 28, 1919, in Drakesboro, Kentucky; and

WHEREAS, the son of Clyde and Julia Draper, Robert L. Draper was the oldest of three children who lived his earliest years in several coal camps in west Kentucky; and

WHEREAS, active in civic affairs as a young man, Robert L. Draper joined a youth program at the age of fifteen under the New Deal, serving during the depression in Idaho and generously sending $25 of his $30 monthly salary home to his parents in Kentucky; and

WHEREAS, Robert L. Draper followed in his father's footsteps as a coal miner at the age of sixteen to help make ends meet during the depression; and

WHEREAS, on February 14, 1940, Robert L. Draper married his beloved Pauline Hocker before relocating to Chicago seeking employment to support his wife and new son, Larry; and

WHEREAS, a gallant veteran of the battle of Iwo Jima, Robert L. Draper participated in some of the most fierce fighting of World War II as a member of the United States Marine Corps, tenaciously holding ground for American troops during the entire thirty-three day campaign for the island; and

WHEREAS, upon returning to civilian life following World War II, Robert L. Draper moved his family back to the Commonwealth where he worked for fifteen years in the west Kentucky coal mines; and

WHEREAS, Robert L. Draper left the coal fields to work at Green River Steel in Owensboro before starting an auto salvage yard that he helped operate for over a decade; and

WHEREAS, Robert L. Draper was elected to one term as sheriff in 1969, before the citizens of Muhlenberg County selected him in 1973 to champion their causes as County Judge/Executive; and

WHEREAS, Robert L. Draper retired as County Judge/Executive in 1989 but was called out of retirement in 1992 to fill a vacancy in the office; and

WHEREAS, Robert L. Draper was the people's choice to continue to serve out the term as County Judge/Executive; and

WHEREAS, while serving as County Judge/Executive Robert L. Draper dedicated his tenure to providing access to the county water system for as many citizens of Muhlenberg County as possible; and

WHEREAS, Robert L. Draper also diligently worked as County Judge/Executive to provide good roads to all areas of Muhlenberg County; and

WHEREAS, Robert L. Draper will forever be remembered and beloved as Muhlenberg County Judge/Executive for his honesty, integrity, sincerity, and prudent stewardship of the peoples' tax dollars;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. The Transportation Cabinet is directed to name Kentucky Route 189 in Muhlenberg County from United States Route 62 west to north of the City of Greenville ending at the intersection of Airport Road and Spartan Way the "Robert L. Draper Way."

Section 2. The Transportation Cabinet shall, within thirty days of the effective date of this Resolution, erect signs at the junction of Kentucky Route 189 and United States Route 62, and at the junction of Kentucky Route 189 with the intersection of Airport Road and Spartan Way that read the "Robert L. Draper Way."

HJR 131, A JOINT RESOLUTION directing the Transportation Cabinet to rename a portion of Kentucky Route 260 in Hopkins County the "Veterans Memorial Highway."

WHEREAS, it is the United States Armed Forces that defend our great nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, countless servicemen have sacrificed their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, all Americans owe a debt of gratitude that we can never repay to the selfless men and women who have served in the United States Armed Forces; and

WHEREAS, rows of plain white headstones, both here and around the world, represent the ultimate sacrifice made to protect our freedom and our way of life; and

WHEREAS, even though millions of friends and loved ones have shed silent tears and endured grief-filled hearts, there remains a constant overwhelming pride in the veterans who have gallantly served their country;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky Route 260 in Hopkins County from the west boundary of the right-of-way of the Pennyrile Parkway extending easterly for 0.743 miles shall be renamed the "Veterans Memorial Highway."

Section 2. The Secretary of the Transportation Cabinet shall erect appropriate highway signs at all junctions on Kentucky Route 260 along the length of the "Veterans Memorial Highway" within thirty (30) days of the effective date of this Resolution.

The Committee Substitute No. 1 to **HJR 131** is as follows:

HJR 131, A JOINT RESOLUTION directing the Transportation Cabinet to rename a portion of Kentucky Route 260 in Hopkins County the "Veterans Memorial Highway."

WHEREAS, it is the United States Armed Forces that defend our great nation from foreign powers that act against our national interests and seek to tarnish the principles of freedom and justice; and

WHEREAS, countless servicemen have sacrificed their lives in defense of the Constitution that makes our country the model for the free world; and

WHEREAS, all Americans owe a debt of gratitude that we can never repay to the selfless men and women who have served in the United States Armed Forces; and

WHEREAS, rows of plain white headstones, both here and around the world, represent the ultimate sacrifice made to protect our freedom and our way of life; and

WHEREAS, even though millions of friends and loved ones have shed silent tears and endured grief-filled hearts, there remains a constant overwhelming pride in the veterans who have gallantly served their country;

NOW, THEREFORE,

Be it resolved by the General Assembly of the Commonwealth of Kentucky:

Section 1. Kentucky Route 260 in Hopkins County from the west boundary of the right-of-way of the Pennyrile Parkway extending easterly for 0.743 miles shall be renamed the "Veterans Drive."

Section 2. The Secretary of the Transportation Cabinet shall erect appropriate highway signs at all junctions on Kentucky Route 260 along the length of the "Veterans Drive" within thirty (30) days of the effective date of this Resolution.

The Committee Amendment No. 1 Title to **HJR 131** is as follows:

On page 1, amend the title to read as follows:

"A JOINT RESOLUTION directing the Transportation Cabinet to rename a portion of Kentucky Route 260 in Hopkins County "Veterans Drive."

The Committee on Elections, Constitutional Amendments, and Intergovernmental Affairs reported **HB 724,** with Committee Amendment attached thereto, **HB 745,** with Committee Amendment attached thereto, **HB 808, HB 866,** and **HB 936** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 724, AN ACT proposing an amendment to Sections 30 and 31 of the Constitution of Kentucky relating to elections of the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 30 of the Constitution of Kentucky be amended to read as follows:

Members of the House of Representatives and Senators shall be elected at the general election in even-numbered years for terms of four years for Senators and ***four***[~~two~~] years for members of the House of Representatives. The term of office of Representatives and Senators shall begin upon the first day of January of the year succeeding their election.

Section 2. It is proposed that Section 31 of the Constitution of Kentucky be amended to read as follows:

At the general election to be held in November, 1984, and every two years thereafter, there shall be elected for four years one Senator in each Senatorial District in which the term of his predecessor in office will then expire***. At the general election to be held in November, 2002, and every four years thereafter, there shall be elected for four years one Representative in each Representative District***[~~ and in every Representative District one Representative for two years~~].

Section 3. As a part of this amendment, and as a schedule of transitional provisions, for the purpose of this amendment:

(1) The term of office of Representatives who are elected in 2000 shall be two years.

(2) The term of office of Representatives who are elected in 2002 shall be four years.

Section 4. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Amendment No. 1 to **HB 724** is as follows:

On page 1, at line 4, by inserting the word "*six*" after the words "terms of"; and

On page 1, at line 4, by bracketing and striking through the word "four"; and

On page 1, at line 10, after the first comma in that line, by inserting "*2002*"; and

On page 1, at line 10, by bracketing and striking through "1984"; and

On page 1, at line 11, by inserting the word "*six*" after the words "elected for"; and

On page 1, at line 11, by bracketing and striking through "four"; and

On page 1, at line 21, by inserting the following new subsections:

"(3) The term of office of Senators who are elected in 2000 shall be four years.

(4) The term of office of Senators who are elected in 2002 shall be six years."

HB 745, AN ACT proposing to create a new section of the Kentucky Constitution relating to a statewide referendum on container deposit.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. IT IS PROPOSED THAT A NEW SECTION BE ADDED TO THE CONSTITUTION OF KENTUCKY TO READ AND BE NUMBERED SECTION 60A AS FOLLOWS:

Notwithstanding any other provision of the Constitution to the contrary, the General Assembly shall, by general law, provide a means whereby the sense of the people of the Commonwealth may be taken as to whether or not to require a statewide program of deposit for the purchase of beverage containers to be redeemed for reimbursement, and the referendum power of the people is hereby declared to exist to apply only to this section or amended section. A referendum on this question shall be placed before the people of this Commonwealth at a regular election upon a petition signed by a number of registered voters equal to five percent of the votes cast in the Commonwealth for slates of candidates for Governor and Lieutenant Governor at the last preceding regular election, and filed with the Secretary of State. The petition shall set forth a title describing the measure, an accurate and concise summary of the measure, and the text of the proposed statute for inclusion on the ballot, which shall appear on each petition submitted for signatures as shall be prescribed by law. The General Assembly shall provide a way by which the petitions shall be circulated, presented, qualified, and published, and the manner in which the referendum shall be submitted to the people, but the referendum shall only be submitted to the voters if it has been certified by the Secretary of State as qualifying under this section and any procedures prescribed by the General Assembly at least one hundred twenty days prior to the regular election. Any referendum submitted to the people shall take effect and become a law when approved by the majority of the votes cast thereon, and not otherwise. The veto power of the Governor shall not extend to measures referred to the people under this section. Any measure approved by the voters shall be codified in the same manner as bills enacted by the General Assembly. Any referendum so proposed and defeated by the people shall not be eligible to appear again on the ballot at a regular election until the expiration of two years from the regular election at which the referendum was defeated.

Section 2. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415.

The Committee Amendment No. 1 to **HB 745** is as follows:

On page 1, at line 20, by deleting the words "*qualifying under this section*" and inserting "*being regular on its face*" in lieu thereof.

HB 808, AN ACT relating to candidates for mayor.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 83A.040 is amended to read as follows:

(1) A mayor shall be elected by the voters of each city at a regular election. *A candidate for mayor shall be a resident of the city for not less than one (1) year prior to his or her election.* His term of office shall begin on the first day of January following his election and shall be for four (4) years and until his successor qualifies. A mayor shall be at least twenty-five (25) years of age, shall be a qualified voter in the city, and shall reside in the city throughout his term of office.

(2) If a vacancy occurs in the office of mayor, the following provisions shall apply:

(a) The legislative body of the city shall fill the vacancy within thirty (30) days.

(b) A member of the legislative body in any city organized and governed under the commission plan as provided by KRS 83A.140 or city manager plan as provided by KRS 83A.150 may vote for himself.

(c) A member of the legislative body in any city organized and governed under the mayor-council plan as provided by KRS 83A.130 and in any city of the first class organized under the mayor-alderman plan as provided by KRS Chapter 83 shall not vote for himself.

(d) The legislative body shall elect from among its members an individual to preside over meetings of the legislative body during any vacancy in the office of mayor in accordance with the provisions of KRS 83A.130 to 83A.150.

(3) When voting to fill the vacancy created by a resignation of a mayor the resigning mayor shall not vote on his successor.

(4) Each legislative body member shall be elected at-large by the voters of each city at a regular election. His term of office shall begin on the first day of January following his election and shall be for two (2) years, except as provided by KRS 83A.050. A member shall be at least twenty-one (21) years of age, shall be a qualified voter in the city and shall reside in the city throughout his term of office.

(5) If one (1) or more vacancies on a legislative body occur in a way that one (1) or more members remain seated, the remaining members shall within thirty (30) days fill the vacancies one (1) at a time, giving each new appointee reasonable notice of his selection as will enable him to meet and act with the remaining members in making further appointments until all vacancies are filled. If vacancies occur in a way that all seats become vacant, the Governor shall appoint qualified persons to fill the vacancies sufficient to constitute a quorum. Remaining vacancies shall be filled as provided in this section.

(6) If for any reason, any vacancy in the office of mayor or the legislative body is not filled within thirty (30) days after it occurs, the Governor shall promptly fill the vacancy by appointment of a qualified person who shall serve for the same period as if otherwise appointed.

(7) No vacancy by reason of voluntary resignation in the office of mayor or on a legislative body shall occur unless a written resignation which specifies a resignation date is tendered to the legislative body. The resignation shall be effective at the next regular meeting of the city legislative body.

(8) Pursuant to KRS 118.305(7), if a vacancy occurs which is required by law to be filled temporarily by appointment, the legislative body or the Governor, whichever is designated to make the appointment, shall immediately notify in writing both the county clerk and the Secretary of State of the vacancy.

(9) Except in cities of the first class, any elected officer, in case of misconduct, incapacity, or willful neglect in the performance of the duties of his office, may be removed from office by a unanimous vote of the members of the legislative body exclusive of any member to be removed, who shall not vote in the deliberation of his removal. No elected officer shall be removed without having been given the right to a full public hearing. The officer, if removed, shall have the right to appeal to the Circuit Court of the county and the appeal shall be on the record. No officer so removed shall be eligible to fill the office vacated before the expiration of the term to which originally elected.

(10) Removal of an elected officer in cities of the first class shall be governed by the provisions of KRS 83.660.

HB 866, AN ACT relating to voting locations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 118.045 is amended to read as follows:

(1) Every voting ***location***[~~precinct~~] on the day upon which any election is held shall, during voting hours, display an American flag of dimensions of reasonable size, which shall be firmly attached to the entrance of the voting ***location***[~~precinct~~] so that it will be readily visible to the general public.

(2) ***A***[~~The~~] precinct sheriff shall attach the American flag to the entrance of the voting ***location***[~~precinct~~] upon the opening of the polls on the election day and shall remove the same upon the closing of the polls.

(3) The fiscal court of every county shall purchase out of its general fund sufficient American flags for every ***entrance to a*** voting ***location***[~~precinct~~] in that county.

HB 936, AN ACT proposing an amendment to Sections 36 and 42 of the Constitution of Kentucky relating to legislative sessions.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. It is proposed that Section 36 of the Constitution of Kentucky be amended to read as follows:

The General Assembly shall meet ***each year*** on the first Tuesday after the first Monday in January. In odd-numbered years***, the General Assembly shall convene in organizational session*** for a period not to exceed ***five***[~~ten~~] legislative days for the purposes of electing legislative leaders, adopting rules of procedure and the organizing of committees. ***The General Assembly shall then adjourn until the first Tuesday in February in odd-numbered years, at which time it shall convene in a limited issues session for a period not to exceed twenty-four legislative days, during which time it may only consider the current budget, appointments, government reorganizations, and authority for administrative regulations as though in regular session.***

The General Assembly shall then adjourn until the first Tuesday after the first Monday in January of the following even-numbered years, at which time the General Assembly shall convene in regular session. ***All***~~[, and its]~~ sessions shall be held at the seat of government, except in case of war, insurrection or pestilence, when it may, by proclamation of the Governor, assemble, for the time being, elsewhere.

Section 2. It is proposed that Section 42 of the Constitution of Kentucky be amended to read as follows:

The members of the General Assembly shall severally receive from the State Treasury compensation for their services: Provided, No change shall take effect during the session at which it is made; nor shall a session of the General Assembly continue beyond sixty legislative days, exclusive of Sundays, legal holidays or any day on which neither House meets, except that no regular session shall extend beyond April 15 of even-numbered years***, and no limited issues session in odd-numbered years shall extend beyond March 24 of that year***; but this limitation as to length of session shall not apply to the Senate when sitting as a court of impeachment. A legislative day shall be construed to mean a calendar day.

Section 3. This amendment shall be submitted to the voters of the Commonwealth for their ratification or rejection at the time and in the manner provided for under Sections 256 and 257 of the Constitution and under KRS 118.415. The question to be submitted to the voters regarding this proposed amendment shall read: "Are you in favor of amending the Kentucky Constitution to require the General Assembly to meet annually, by having a limited issues session in odd-numbered years for a maximum of twenty-four days?".

The Committee on Licensing and Occupations reported **HB 857, HB 881,** with Committee Substitute attached thereto, **HB 912,** with Committee Substitute attached thereto, **HB 944, SB 152,** with House Committee Substitute attached thereto, and **SB 215** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 857, AN ACT relating to licenses for barber shops.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 317.450 is amended to read as follows:

(1) (a) The board shall issue a license to practice barbering to any person who:

1. Is at least seventeen and one-half (17-1/2) years of age;
2. Is of good moral character and temperate habit;
3. Has acted as a licensed apprentice for at least nine (9) months under the immediate supervision of a licensed barber;
4. Has satisfactorily passed the examination prescribed by the barber board; and
5. Has paid a fee not to exceed fifty dollars ($50).

(b) The board may reciprocate with other states and issue a barber license upon payment of a fee not to exceed two hundred fifty dollars ($250) and upon submission of satisfactory evidence that the requirements for licensure in the other state are substantially equivalent to the requirements of this state at the time of application. The board may require an applicant under this section to pass an examination to establish equivalency.

(2) The board shall issue a license to act as an apprentice to a barber to any person who:

(a) Is at least sixteen and one-half (16-1/2) years of age;

(b) Is of good moral character and temperate habit;

(c) Has at least four (4) years of high school education;

(d) Has graduated from an accredited or licensed school of barbering;

(e) Has satisfactorily passed the examination prescribed by the barber board by promulgation of administrative regulations; and

(f) Has paid a fee not to exceed fifty dollars ($50).

(3) The board shall issue a license to operate a barber shop to any barber licensed under the provisions of this chapter upon application and payment of a fee not to exceed ***seventy-five dollars ($75) plus an additional amount equal to the percentage increase in the annual average of the consumer price index, for all urban consumers for the most recent calendar year, as published by the Federal Bureau of Labor Statistics***~~[fifty dollars ($50)]~~. The board shall refuse to issue the license upon a failure of the licensed barber to comply with the provisions of this chapter or the administrative regulations promulgated by the board.

(4) The board shall issue a license to operate a school of barbering to any person, firm, or corporation who or which:

(a) Applies for a license upon forms furnished by the board;

(b) Has the equipment and facilities that may be required by administrative regulations promulgated by the board;

(c) Has furnished adequate evidence to the board that:

1. There is an intent to establish a bona fide school for the education and training of competent barbers; and

2. A sufficient number of teachers licensed by the board will be employed to conduct the school, including at least one (1) teacher with a minimum of twelve (12) months' experience teaching in a barber school that includes administrative experience; and

(d) Pays a fee not to exceed one hundred fifty dollars ($150).

(5) The board shall issue a license to teach barbering to any person who:

(a) Is of good moral character and temperate habit;

(b) Has a high school education;

(c) Has been a licensed and practicing barber for at least eighteen (18) months;

(d) Has satisfactorily passed the examination prescribed by the board by promulgation of administrative regulations; and

(e) Has paid a fee not to exceed one hundred dollars ($100).

(6) Applications for examination required in this section shall be accompanied by an examination fee as follows:

(a) Barber -- not to exceed one hundred fifty dollars ($150);

(b) Apprentice to a barber -- not to exceed one hundred fifty dollars ($150);

(c) Teaching barbering -- not to exceed one hundred fifty dollars ($150).

(7) Licenses issued pursuant to this section shall expire on the first day of July next following the date of their issuance. Any license shall automatically be renewed by the board upon receipt of the required annual license fee no later than thirty-one (31) days after the expiration date if the applicant for renewal is otherwise in compliance with the provisions of this chapter and the administrative regulations of the board.

(8) The annual renewal license fee for each type of license renewal shall be as follows:

(a) Barber -- not to exceed fifty dollars ($50);

(b) Apprentice to barber -- not to exceed fifty dollars ($50);

(c) Teacher of barbering -- not to exceed fifty dollars ($50);

(d) Barber shop -- not to exceed fifty dollars ($50);

(e) Barber school -- not to exceed one hundred fifty dollars ($150).

(9) Except as provided in subsection (7) of this section, the fee for the renewal of an expired license, if the period of expiration does not exceed five (5) years, shall be as follows:

(a) Barber -- not to exceed twenty-five dollars ($25) plus lapse fees;

(b) Apprentice -- not to exceed twenty-five dollars ($25) plus lapse fees;

(c) Barber shop -- not to exceed twenty-five dollars ($25) plus lapse fees;

(d) Barber school -- not to exceed twenty-five dollars ($25) plus lapse fees;

(e) Teacher of barbering -- not to exceed twenty-five dollars ($25) plus lapse fees.

HB 881, AN ACT relating to real estate sales associates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.117 is amended to read as follows:

(1) Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company listed on the licensee's real estate license or the name of the principal broker and a designation indicating that the licensee is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising.

(2) The name of a deceased broker may remain a part of the firm name.

(3) ***An associate may have his or her name in the firm name after two (2) years experience with the firm***[~~No associate may have his or her name in the firm name~~].

(4) Any sales associate or broker affiliated with a principal broker shall advertise in the name of the real estate company listed on the associate's or broker's real estate license or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.

The Committee Substitute No. 1 to **HB 881** is as follows:

HB 881, AN ACT relating to real estate sales associates.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 324.117 is amended to read as follows:

(1) Real estate advertising shall not be false, misleading, or deceptive. All real estate advertising shall specify the names of the real estate company listed on the licensee's real estate license or the name of the principal broker and a designation indicating that the licensee is engaged in the real estate business. The commission shall promulgate administrative regulations to define false, misleading, or deceptive advertising.

(2) The name of a deceased broker may remain a part of the firm name.

(3) *An associate may have his or her name in the firm name after two (2) years experience with the firm, averaging at least twenty (20) hours per week for twenty-four (24) months*~~[No associate may have his or her name in the firm name]~~.

(4) Any sales associate or broker affiliated with a principal broker shall advertise in the name of the real estate company listed on the associate's or broker's real estate license or the name of the principal broker, unless he or she is selling, renting, leasing, or otherwise dealing in his or her own property.

HB 912, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) If the legislative body of any city or county, with or without prohibition in effect, determines that an economic hardship exists within the city or county and that the sale of alcoholic beverages by the drink in restaurant facilities would aid economic growth, or upon petition in the city or county as provided in KRS 242.020, a local option election shall be held in the manner prescribed in KRS 242.030 (1), (2), and (5), 242.040, 242.060, 242.070, and 242.080. The proposition to be voted upon shall be "Are you in favor of the sale in the (city or county) of alcoholic beverages by the drink limited to restaurants that have dining facilities for not less than one hundred (100) persons and that derive at least seventy percent (70%) of their gross annual food and beverage receipts from the sale of food?" If a majority of the voters vote "Yes" on the proposition, the legislative body of the city or county may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(2) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons, and that derive a minimum of seventy percent (70%) of their gross annual food and beverage receipts from the sale of food.

(3) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable policies and procedures as may be necessary for the enforcement or administration of this section. However, any policies and procedures adopted shall conform to the requirements of KRS 241.190.

(4) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county under KRS 243.070.

The Committee Substitute No. 1 to **HB 912** is as follows:

HB 912, AN ACT relating to economic development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 242 IS CREATED TO READ AS FOLLOWS:

(1) If the legislative body of any city or county, with or without prohibition in effect, determines that an economic hardship exists within the city or county and that the sale of alcoholic beverages by the drink in restaurant facilities would aid economic growth, or upon petition in the city or county as provided in KRS 242.020, a local option election shall be held in the manner prescribed in KRS 242.030 (1), (2), and (5), 242.040, 242.060, 242.070, and 242.080. The proposition to be voted upon shall be "Are you in favor of the sale in the (city or county) of alcoholic beverages by the drink limited to restaurants, hotels, motels, or inns that have dining facilities for not less than one hundred (100) persons and that derive at least seventy percent (70%) of their gross annual food and beverage receipts from the sale of

food?" If a majority of the voters vote "Yes" on the proposition, the legislative body of the city or county may enact a comprehensive, regulatory ordinance covering the licensing and operation of hotels, motels, inns, or restaurants for the sale of alcoholic beverages by the drink for consumption on the premises.

(2) Licenses shall only be issued to hotels, motels, or inns containing not less than fifty (50) sleeping units and having dining facilities for not less than one hundred (100) persons or bona fide restaurants open to the general public having dining facilities for not less than one hundred (100) persons, and that derive a minimum of seventy percent (70%) of their gross annual food and beverage receipts from the sale of food.

(3) The city or county legislative body may provide for the issuance of any licenses permitted by KRS 243.070, or the issuance of any other reasonable policies and procedures as may be necessary for the enforcement or administration of this section. However, any policies and procedures adopted shall conform to the requirements of KRS 241.190.

(4) Notwithstanding any limitations imposed on the city's or county's taxing or licensing power by KRS 243.070, the city or county may by ordinance impose a regulatory license fee upon the gross receipts of each establishment located therein and licensed to sell alcoholic beverages by the drink for consumption on the premises. The regulatory license fee may be levied annually at a rate as shall be reasonably estimated to fully reimburse the city or county for the estimated costs for any additional policing, regulatory, or administrative related expenses. The regulatory license fee shall be in addition to any other taxes, fees, or licenses permitted by law, but a credit against the fee shall be allowed in an amount equal to any licenses or fees imposed by the city or county under KRS 243.070.

HB 944, AN ACT relating to driver training schools.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 332.030 is amended to read as follows:

(1) Any person seeking a license to operate, conduct, maintain, or establish a driver training school shall make verified application to the cabinet on forms prepared and furnished by the cabinet. The application shall set forth the following information:

(a) The title or name of the school and the names of the owners thereof and, if the owner be a corporation, the names and addresses of the officers thereof;

(b) A statement that the owners of the driver training school unless it be a corporation are each 21 years of age or over, are residents of this state, and have been such for at least one (1) year next preceding the application for license, and are each of good moral character;

(c) A description of the established place of business together with the hours during which the driver training school is conducted and a description of the equipment and facilities used in driver training;

(d) Evidence of liability insurance coverage of the driver training school, the instructor, and students of the driver training school while operating driver training school equipment. Such insurance shall have minimum limits of not less than $25,000 for bodily injury or death of one (1) person in any one accident and subject to the limit for any one person, $50,000 for bodily injury or death of two (2) or more persons in any one accident and $10,000 for damage to the property of others in any one accident. Evidence of insurance coverage shall also provide that the insurance coverage shall not be canceled except after 10 days prior notice in writing by the carrier to the secretary. ***Upon request by an applicant, the Justice Cabinet shall review an application and provide a letter to the applicant that a proposed driver training school has met all preliminary requirements for approval, except the provisions of this paragraph. The letter may be used by the applicant to help secure the liability insurance coverage needed under this paragraph to obtain a license to operate a school. A letter provided under this paragraph shall not be construed as approval to perform driver's training or to operate a school.***

(2) Each original application for a license to operate a driver training school and each application for renewal of a license to operate a driver training school shall be accompanied by the payment of a fee of $200 to the cabinet.

(3) Any person seeking a license to act as a driver training instructor shall make verified application to the cabinet on forms prepared and furnished by the cabinet setting forth that the applicant is twenty-one (21) years of age or older; is of good moral character; is a high school graduate or has the equivalent of a high school education, or has equivalent experience; and holds a current and valid operator's license issued by the cabinet.

(4) Each original application for a license as a driver training instructor and each application for renewal of a license as a driver training instructor shall be accompanied by the payment of a fee of $20.00 to the cabinet.

SB 152, AN ACT relating to noncontiguous race track facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for

and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated under KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed under KRS 137.170, or any admission tax imposed under KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

(a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

(b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

1. Thirty percent (30%) shall be allocated to the host track;
2. Forty-six and one-half percent (46.5%) to the purse program at the host track;
3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;
4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:
    a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and
    b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and
5. Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

(c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.

(10) Subsections (1) and (2) of this section shall also apply to the establishment by a track of a noncontiguous facility in a county in which pari-mutuel racing and wagering is not being conducted. Subsection (8) of this section shall also apply to a noncontiguous race track facility referenced in this subsection, unless there is a written agreement to the contrary between the track establishing the facility and the governing body of the local government jurisdiction in which the facility is to be established.

The House Committee Substitute No. 1 to **SB 152** is as follows:

SB 152, AN ACT relating to noncontiguous race track facilities.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 230.380 is amended to read as follows:

(1) Any track licensed by the commission to conduct horse racing and desiring to establish a simulcast facility shall apply for and may receive approval from the commission for each simulcast facility. Prior to considering an application for approval of a simulcast facility, the commission shall notify by regular mail, each state senator, state representative, county judge/executive, and mayor in the jurisdiction in which the proposed simulcast facility is located, at least ten (10) days in advance of the commission meeting at which the application is to be considered or voted upon. Consideration of an application shall be based on criteria contained in administrative regulations promulgated under KRS 230.300. Approval, if granted, shall be granted for a term of one (1) calendar year.

(2) A track or tracks may proceed with the establishment of a simulcast facility unless, within sixty (60) days of the date on which the commission approved the facility, the governing body of the local government jurisdiction in which the facility is to be located votes, by simple majority of those voting, to disapprove the establishment of the simulcast facility. For the purposes of this section, "governing body" means, in an incorporated area, the board of aldermen, city council or board of commissioners; in a county, the fiscal court; in an urban-county government, the urban-county council, or in a charter county, the legislative body created in accordance with KRS 67.825 to 67.875.

(3) The commission shall not approve the establishment of any simulcast facility within a radius of fifty (50) miles of a licensed track. The commission may approve the establishment of one (1) simulcast facility within a radius of greater than fifty (50) miles but less than seventy-five (75) miles of a licensed track, but the facility shall not be approved to operate without the prior written consent of the licensed track within whose seventy-five (75) mile radius the facility is located.

(4) The commission may promulgate administrative regulations as it deems appropriate to protect the integrity of pari-mutuel wagering at any simulcast facility.

(5) Licensed tracks conducting horse racing may enter into joint agreements to establish or operate one (1) or more simulcast facilities, on terms and conditions as the participating tracks may determine. Any agreements respecting these arrangements shall be filed with the commission, and applications for simulcast facilities shall be filed by and licenses may be issued to, these licensed tracks by the commission.

(6) A simulcast facility may be established and operated on property that is owned or leased and which is not used solely for the operation of a simulcast facility; provided however, that a simulcast facility may not be established on the premises of a lottery vendor.

(7) A simulcast facility shall not be subject to and shall not pay any excise tax imposed pursuant to KRS 138.510, any license tax imposed under KRS 137.170, or any admission tax imposed under KRS 138.480.

(8) One percent (1%) of all moneys wagered at a simulcast facility shall be dedicated for local economic development and shall be allocated as follows:

  (a) If a simulcast facility is located in an incorporated area, seventy-five percent (75%) shall be allocated to the governing body of the city in which the facility is located, and twenty-five percent (25%) to the governing body of the county in which the facility is located.

  (b) If a simulcast facility is located in an unincorporated area, all moneys shall be allocated to the governing body of the county or charter county in which the facility is located.

(9) (a) After the deduction of moneys under subsection (8), simulcast facility shall deduct a commission allowed under KRS 230.3615 with respect to all wagers made at the simulcast facility. The commission, less moneys allocated in subsection (8) of this section, shall be split as follows:

  1. Thirty percent (30%) shall be allocated to the host track;
  2. Forty-six and one-half percent (46.5%) to the purse program at the host track;
  3. Thirteen and one-half percent (13.5%) to be retained by the track or tracks owning the simulcast facility for the purpose of application to expenses incurred in connection therewith;
  4. Six percent (6%) to be allocated to the Kentucky Thoroughbred Owners and Breeders, Inc., to be expended as follows:

a. Up to three percent (3%) for capital improvements and promotion of off-track betting; and

b. The remainder for marketing and promoting the Kentucky thoroughbred industry; and

5. Four percent (4%) to be allocated to the commission to be used for purses at county fairs in Kentucky licensed and approved by the commission, and for the standardbred sires stakes program established under KRS 230.770.

(b) The commission of a simulcast facility derived from interstate wagering shall be reduced by any amounts required to be paid by contract to the host track or track conducting the live race before it is divided as set forth in this section. No simulcast facility may receive any interstate simulcast except with the approval of the live Kentucky host track.

(c) The Kentucky Thoroughbred Owners and Breeders, Inc., shall annually report to the commission on all money expended in accordance with subsection (9)(a)4. of this section. The report shall be in the form required, and provide all information required by the commission.

(10) Subsections (1) and (2) of this section shall also apply to the establishment by a track of a noncontiguous facility in a county in which pari-mutuel racing and wagering is not being conducted. Subsection (8) of this section shall also apply to a noncontiguous race track facility referenced in this subsection, unless there is a written agreement to the contrary between the track establishing the facility and the governing body of the local government jurisdiction in which the facility is to be established.

Section 2. KRS 138.510 is amended to read as follows:

(1) Except for the conduct of harness racing at a county fair, an excise tax is imposed on all tracks conducting pari-mutuel racing under the jurisdiction of the Kentucky Racing Commission. For each track with a daily average handle of one million two hundred thousand dollars ($1,200,000) or above, the tax shall be in the amount of three and one-half percent (3.5%) of all money wagered during the fiscal year. A fiscal year as used in this subsection and subsection (2) ***of this section*** shall begin at 12:01 a.m. July 1 and end at 12 midnight June 30. For each track with a daily average handle under one million two hundred thousand dollars ($1,200,000) the tax shall be an amount equal to one and one-half percent (1.5%) of all money wagered during the fiscal year. ***However, effective January 1, 2001, if a host track located in this state is the location for the conduct of a one (1) day international horse racing event that distributes in excess of a total of ten million dollars ($10,000,000) in purses, an excise tax shall not be imposed on pari-mutuel wagering on live racing conducted that day at the race track. This tax exemption shall remain in effect for any succeeding one (1) day international horse racing event if the event returns within three (3) years of the previously-held event.*** For the purposes of this subsection, the daily average handle shall be computed from the amount wagered only at the host track on live racing and shall not include money wagered:

(a) At a receiving track;

(b) At a simulcast facility;

(c) On telephone account wagering; or

(d) At a track participating as a receiving track or simulcast facility displaying simulcasts and conducting interstate wagering as permitted by KRS 230.3771 and 230.3773.

Money shall be deducted from the tax paid by host tracks and deposited to the respective development funds in the amount of three-quarters of one percent (0.75%) of the ***total*** live racing handle for thoroughbred racing and one percent (1%) of the ***total*** live handle for harness racing.

(2) An excise tax is imposed on:

(a) All licensed tracks conducting telephone account wagering;

(b) All tracks participating as receiving tracks in intertrack wagering under the jurisdiction of the Kentucky Racing Commission; and

(c) All tracks participating as receiving tracks displaying simulcasts and conducting interstate wagering thereon.

(3) The tax imposed in subsection (2) of this section shall be in the amount of three percent (3%) of all money wagered under subsection (2) of this section during the fiscal year. ***A noncontiguous track facility approved by the Kentucky Racing Commission on or after January 1, 1999, shall be exempt from the tax imposed under this subsection, if the facility is established and operated by a licensed track which has a total annual handle on live racing of two hundred fifty thousand dollars ($250,000) or less. The amount of money exempted under this subsection shall be retained by the noncontiguous track facility, KRS 230.3771 and 230.378 notwithstanding.***

(4) An amount equal to two percent (2%) of the amount wagered shall be deducted from the tax imposed in subsection (2) of this section and deposited as follows:

(a) If the money is deducted from taxes imposed under subsection (2)(a) and (b) of this section, it shall be deposited in the thoroughbred development fund if the host track is conducting a thoroughbred race meeting or the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if the host track is conducting a harness race meeting; or

(b) If the money is deducted from taxes imposed under subsection (2)(c) of this section, to the thoroughbred development fund if interstate wagering is conducted on a thoroughbred race meeting or to the Kentucky standardbred, quarter horse, Appaloosa, and Arabian development fund, if interstate wagering is being conducted on a harness race meeting.

(5) Two-tenths of one percent (0.2%) of the total amount wagered on live racing in Kentucky shall be deducted from the pari-mutuel tax levied in subsection (1) of this section, and one-twentieth of one percent (0.05%) of the total amount wagered on intertrack wagering shall be deducted for the pari-mutuel tax levied in subsection (2) of this section, and allocated to the equine industry program trust and revolving fund to be used for funding the equine industry program at the University of Louisville.

(6) One-tenth of one percent (0.1%) of the total amount wagered in Kentucky shall be deducted from the pari-mutuel tax levied in subsections (1), (2), and (3) of this section and deposited to a trust and revolving fund to be used for the construction, expansion, or renovation of facilities or the purchase of equipment for equine programs at state universities. These funds shall not be used for salaries or for operating funds for teaching, research, or administration. Funds allocated under this subsection shall not replace other funds for capital purposes or operation of equine programs at state universities. The Kentucky Council on Postsecondary Education shall serve as the administrative agent and shall establish an advisory committee of interested parties, including all universities with established equine programs, to evaluate proposals and make recommendations for the awarding of funds. The Kentucky Council on Postsecondary Education may by administrative regulation establish procedures for administering the program and criteria for evaluating and awarding grants.

SECTION 3. A NEW SECTION OF KRS CHAPTER 230 IS CREATED TO READ AS FOLLOWS:

(1) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., may create and fund the Kentucky Race Track Retirement Plan. The board shall use no more than twenty-five percent (25%) of the annual sum paid by the commission under KRS 230.361 to 230.373 to fund the plan.

(2) The plan shall be provided for the benefit of thoroughbred trainers, assistant trainers, exercise riders, grooms, stable attendants, and other stable employees who can demonstrate that they are not otherwise eligible to participate in any other private or public, nonself-funded retirement or pension plan.

(3) The Kentucky Race Track Retirement Plan shall be administered by the board of directors of the Kentucky Racing Health and Welfare Fund, Inc., for the charitable and benevolent purposes set forth in KRS 230.374, and no part of the sums administered by the fund for the plan or any net earnings of the plan shall inure to the benefit of any private individual, director, officer, or member of the fund, or any of the persons who paid sums to the commission under the provisions of KRS 230.361 to 230.373.

(4) The board of directors of the Kentucky Racing Health and Welfare Fund, Inc., shall be the trustee of the plan's funds and shall have full power to invest and reinvest funds. Investments shall be diversified to balance the risks associated with various investment options to maintain the long-term solvency of the plan. The board shall have full power to hold, purchase, sell, assign, transfer, or dispose of any of the investments in which any of the plan's funds have been invested, as well as of the proceeds of investments belonging to the plan. The board members or any investment manager shall discharge their duties with respect to the assets of the plan solely in the interest of the plan's members and:

(a) For the exclusive purposes of providing benefits to plan members and their beneficiaries and defraying reasonable expenses of administering the plan;

(b) With the care, skill, prudence, and diligence under the circumstances that a prudent person acting in a like capacity and familiar with these matters would use in the conduct of an enterprise of a like character and with like aims; and

(c) In accordance with any other laws or instruments governing the administration of the plan's funds.

SECTION 4. A NEW SECTION OF KRS CHAPTER 372 IS CREATED TO READ AS FOLLOWS:

(1) The terms and provisions of this chapter do not apply to betting, gaming, or wagering that has been authorized, permitted, or legalized, including, but not limited to, all activities and transactions permitted under KRS Chapters 154A, 230, and 238.

(2) This section shall be applied retroactively as well as prospectively, and, regardless of whether or not a court of competent jurisdiction holds that the General Assembly was authorized to apply this section retroactively, nothing in this section shall be construed as evidence that the General Assembly at any time intended the provisions of KRS 372.010, 372.020, 372.030, 372.040, or 372.050 to apply to legalized betting, gaming, or wagering.

Section 5. KRS 230.230 is amended to read as follows:

(1) The Governor shall appoint an executive director for the commission for a term of four (4) years~~[and]~~ who may be removed in the same manner as a commissioner. The executive director shall possess the powers and perform the duties

imposed upon him by this chapter, and[~~ such~~] other duties as the commission may direct or prescribe. The executive director shall cause to be kept a full record of all proceedings before the commission and shall preserve at its general office all books, maps, records, documents, licenses, and other papers of the commission. All records of the commission shall be open to inspection by the public during regular office hours.

(2) The ***chairman and the executive director of the*** commission may employ***, dismiss, or take other personnel action concerning*** an assistant executive director***,***[~~ and~~] stenographers, clerks, and other personnel as ***they***[~~it~~] may deem necessary to efficiently operate ***the commission's***[~~its~~] general office or any branch thereof. The ***chairman and the executive director of the*** commission shall fix the compensation of all employees. Any member of the commission***,***[~~ or~~] the executive director, or any employee referred to in this section shall be reimbursed for expenses paid or incurred in the discharge of official business when approved by the ***chairman or executive director of the*** commission. The compensation of the employees referred to in this section, except for the executive director, together with reimbursement of expenses incurred by employees, a member of the commission***,*** or the executive director, shall be paid from commission funds.

Section 6. KRS 230.240 is amended to read as follows:

(1) In addition to the employees referred to in KRS 230.230, the ***chairman and the executive director of the*** commission may employ, ***dismiss, or take other personnel action and determine the***[~~at~~] reasonable compensation ***of***[~~,~~] stewards, supervisors of mutuels, veterinarians, inspectors, accountants, ***security officers***[~~guards~~], and other employees deemed by the ***chairman or the executive director***[~~commission~~] to be essential at or in connection with any horse race meeting and ***in***[~~to~~] the best interest of racing. ***The security officers and the members of the commission shall be peace officers and conservators of the peace on commission property and at all race tracks and grounds in the Commonwealth and shall possess all the common law and statutory powers and privileges now available or hereafter made available to sheriffs, constables, and police officers for the purpose of enforcing all laws relating directly or indirectly to the conduct of horse racing and pari-mutuel wagering thereon. The safety and security department created and operated by the commission shall, for all purposes, be deemed a public police department and the sworn safety officers of the department are for all purposes deemed to be public police officers.*** The commission for the purpose of maintaining integrity and honesty in racing shall prescribe by administrative regulation the powers and duties of the persons employed under this section and qualifications necessary to competently perform their duties. In addition, the commission shall be responsible for seeing that racing officials employed under the provisions of this section[~~ shall~~] have adequate training to perform their duties in a competent manner.

(2) The commission shall promulgate administrative regulations for effectively preventing the use of improper devices, ***and restricting or prohibiting*** the ***use and*** administration of drugs or stimulants or other improper acts ***to***[~~for the purpose of affecting the speed or health of~~] horses ***prior to the horse participating in a race.***[~~in races in which they are to participate, and in connection therewith~~] The commission ***may***[~~is authorized to~~] acquire, operate, and maintain, or[~~ to provide by~~] contract for the maintenance and operation of, a testing laboratory and related facilities, for the purpose of saliva, urine, or other tests, and to purchase supplies and equipment for and in connection with ***the***[~~such~~] laboratory or testing processes. The expense of the laboratory or other testing processes, whether furnished by contract or otherwise, together with all supplies and equipment used in connection therewith, shall be paid by the various associations licensed under this chapter in the manner and in proportions as the commission shall by administrative regulation provide.

(3) The compensation of the employees referred to in this section shall be paid by the licensee conducting the horse race meeting in connection with which the employees are utilized or employed. The salary of the executive director to the commission shall be prorated among and paid by the various associations licensed under this chapter in the manner as the commission shall, by administrative regulation, provide. The employees referred to in this section shall be deemed employees of the commission, and are paid by the licensee or association for convenience only.

(4) Each person, as a condition precedent to the privilege of receiving a license under this chapter to conduct a horse race meeting, shall be deemed to have agreed ***to***[~~that it shall~~] pay expenses and compensation as provided in this section and as may be actually and reasonably incurred.

Section 7. KRS 15.380 is amended to read as follows:

(1) The following officers employed or appointed as full-time, part-time, or auxiliary officers, whether paid or unpaid, shall be certified:

(a) State Police officers;

(b) City, county, and urban-county police officers;

(c) Deputy sheriffs, except those identified in KRS 70.045 and 70.263(3);

(d) State or public university safety and security officers appointed pursuant to KRS 164.950;

(e) School security officers employed by local boards of education who are special law enforcement officers appointed under KRS 61.902;

(f) Airport safety and security officers appointed under KRS 183.880;

(g) Department of Alcoholic Beverage Control field representatives and investigators appointed under KRS 241.090; and

(h) Division of Insurance Fraud Investigators appointed under KRS 304.47-040.

(2) The requirements of KRS 15.380 to 15.402 for certification may apply to all state peace officers employed pursuant to KRS Chapter 18A and shall, if adopted, be incorporated by the Department of Personnel for job specifications.

(3) Additional training in excess of the standards set forth in KRS 15.380 to 15.402 for all peace officers possessing arrest powers who have specialized law enforcement responsibilities shall be the responsibility of the employing agency.

(4) The following officers may, upon request of the employing agency, be certified by the council:

(a) Deputy coroners;

(b) Deputy constables;

(c) Deputy jailers;

(d) Deputy sheriffs under KRS 70.045 and 70.263(3);

(e) Officers appointed under KRS 61.360;

(f) Officers appointed under KRS 61.902, except those who are school security officers employed by local boards of education;

(g) Private security officers; and

(h) Employees of a correctional services division created pursuant to KRS 67A.028 and employees of a metropolitan correctional services department created pursuant to KRS 67B.010 to 67B.080.

(5) The following officers shall be exempted from the certification requirements but may upon their request be certified by the council:

(a) Sheriffs;

(b) Coroners;

(c) Constables;[~~ and~~]

(d) Jailers***; and***

(e) Racing commission security officers employed under Section 6 of this Act.

(6) Federal peace officers cannot be certified under KRS 15.380 to 15.402.

SB 215, AN ACT relating to sales of alcoholic beverages.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 244 IS CREATED TO READ AS FOLLOWS:

(1) Manufacturers and importers of distilled spirits and wine may advertise and promote, by specific brand and bottle size, distilled spirits and wine for off-premises consumption by use of rebate coupons.

(2) Rebate coupons are redeemable by the consumer at the point of purchase, or by mail-in certificate by which the consumer receives a cash refund or nonalcoholic beverage merchandise from the manufacturer, importer, or clearinghouse acting for the manufacturer or importer, upon submission by the consumer of the required proof of purchase.

(3) Rebate coupons on malt beverages are prohibited.

Section 2. KRS 243.120 is amended to read as follows:

A distiller's, rectifier's, or vintner's license shall authorize the licensee to engage in the business of distiller, rectifier, or vintner at the premises specifically designated in the license, to maintain aging warehouses, and to transport for himself or herself only any alcoholic beverage which he or she is authorized under the license to manufacture or sell. The licensee shall transport alcoholic beverages only by a vehicle[~~ owned and~~] operated by himself or herself, which has affixed to its sides at all times a sign of form and size prescribed by the state board, containing among other things the name and license number of the licensee. No distilled spirits or wine shall be transported on the same truck or vehicle with malt beverages, except by a common carrier, unless the owner of the truck or vehicle holds a distributor's license.

Section 3. KRS 244.260 is amended to read as follows:

[~~(1)~~]No wholesaler shall purchase, import, keep upon the licensed premises, or sell any distilled spirits or wine in any container except in the original sealed package containing quantities of not less than two hundred (200) milliliters each of distilled spirits or one hundred (100) milliliters of wine, and not exceeding 1.75 liters of distilled spirits or two hundred twenty (220) liters of wine, and fifty (50) milliliters of distilled spirits, as received from the distiller, rectifier, vintner, or wholesaler, as the case may be. The containers shall at all times have affixed to them all labels as may be required by the administrative regulations of the board, together with all necessary federal revenue and state excise tax stamps.

[~~(2) No wholesaler shall sell any distilled spirits or wine except in cases of containers of uniform size, except that wine may be sold in barrels or kegs. "Case" as used in this section means a carton of containers aggregating not less than six (6) liters nor more than twenty-four (24) liters of wine and distilled spirits, or case containing one hundred twenty (120) or two hundred forty (240) fifty (50) milliliter bottles of distilled spirits and wine.~~]

Section 4. KRS 244.280 is amended to read as follows:

[~~(1)~~]No licensee under KRS 243.030 nor any of his agents, servants, or employees shall peddle any alcoholic beverages from house to house, by any means, where the sale is consummated and delivery made concurrently at the residence or place of business of the consumer.

[~~(2) Deliveries shall not be made by holders of special agent's or solicitor's licenses.~~]

Section 5. KRS 243.220 is amended to read as follows:

(1) No license for the sale of alcoholic beverages at retail shall be issued for any premises unless the applicant for the license is the owner of the premises or is in possession of the premises under a written lease ***or a permit*** for a term of not less than the license period.

(2) (a) No premises shall be licensed for the sale of alcoholic beverages at retail unless the licensed premises and the entrance to the premises are on the street level and located in a business center or on a main thoroughfare.

(b) Paragraph (a) of this subsection shall not apply to a hotel, club or restaurant, if the club or restaurant receives a minimum of fifty percent (50%) of its income from the sale of food and has a minimum seating capacity of fifty (50) people at tables. In the cases described in this paragraph the administrator to whom the application is made may, in the exercise of his ***or her*** sound discretion, decide whether the premises are to be licensed.

The Committee on Natural Resources and Environment reported **HB 642,** with Committee Substitute attached thereto, **HB 756,** and **HB 957,** with Committee Substitute attached thereto, with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 642, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) A landowner who engages in the extraction of coal as an incidental part of construction shall not be required to obtain a surface mining permit as required under KRS Chapter 350 or a mining license as required under this chapter if:

(a) The coal removed is two thousand (2,000) tons or less; and

(b) The coal removed is donated to a charitable or educational organization.

(2) The department shall provide advice and technical assistance to a landowner to ensure that the coal is removed in a safe manner.

Section 2. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two ***thousand (2,000)***[~~hundred fifty (250)~~] tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited

structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly

promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

(24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

The Committee Substitute No. 1 to **HB 642** is as follows:

HB 642, AN ACT relating to surface mining.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 351 IS CREATED TO READ AS FOLLOWS:

(1) A landowner engaged in construction who removes coal as an incidental part of construction shall not be required to obtain a surface mining permit as required under KRS Chapter 350 or a mining license as required under this chapter if:

(a) The coal removed is two thousand (2,000) tons or less; and

(b) The coal removed is donated to a charitable, religious, or educational organization exempt from taxation under Section 501(c)(3) of the Internal Revenue Code.

(2) Prior to removal the landowner shall notify the department which shall provide advice and technical assistance to a landowner to ensure that the coal is removed in a safe manner.

Section 2. KRS 350.010 is amended to read as follows:

As used in this chapter, unless the context requires otherwise:

(1) "Surface coal mining operations" means activities conducted on the surface of lands in connection with a surface coal mine and surface impacts incident to an underground coal mine. The activities shall include excavation for the purpose of obtaining coal, including such common methods as contour, strip, auger, extended depth secondary recovery systems, mountaintop removal, box cut, open pit, and area mining, the use of explosives and blasting, and in situ distillation or retorting, leaching, or other chemical or physical processing, and cleaning, concentrating, or other processing or preparation, and the loading of coal at or near the mine site. Excavation for the purpose of obtaining coal includes extraction of coal from refuse piles. The activities shall not include the extraction of coal by a landowner of fifty (50) tons or less within twelve (12) successive calendar months for his own noncommercial use from land owned or leased by him; the extraction of twenty-five (25) to two ***thousand (2,000)***~~[hundred fifty (250)]~~ tons of coal as an incidental part of privately financed construction where the coal is donated to a charitable or educational organization for noncommercial use or noncommercial distribution; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; or coal exploration subject to KRS 350.057. Surface coal mining operations shall also include the areas upon which the activities occur or where the activities disturb the natural land surface. The areas shall also include any adjacent land, the use of which is incidental to the activities, all lands affected by the construction of new roads or the improvement or use of existing roads to gain access to the site of the activities and for haulage, and excavations, workings, impoundments, dams, ventilation shafts, entryways, refuse banks, dumps, stockpiles, overburden piles, spoil banks, culm banks, tailings, holes or depressions, repair areas, storage areas, processing areas, shipping areas, and other areas upon which are sited structures, facilities, or other property or materials on the surface resulting from or incident to the activities. This definition shall include the terms "strip mining" of coal and the "surface effects of underground mining" of coal as used in this chapter;

(2) "Strip mining" means the breaking of the surface soil in order to facilitate or accomplish the extraction or removal of minerals, ores, or other solid matter; any activity or process constituting all or part of a process for the extraction or removal of minerals, ores, and other solid matter from its original location; and the preparation, washing, cleaning, or

other treatment of minerals, ores, or other solid matter so as to make them suitable for commercial, industrial, or construction use; but shall not include the extraction of coal by a landowner for his own noncommercial use of fifty (50) tons or less within twelve (12) successive calendar months from land owned or leased by him; the extraction of coal as an incidental part of federal, state, or local government financed highway or other construction under administrative regulations established by the cabinet; the extraction of, or intent to extract, twenty-five (25) tons or less of coal by any person by surface coal mining operations within twelve (12) successive calendar months; the extraction of coal incidental to the extraction of other minerals where coal does not exceed sixteen and two-thirds percent (16-2/3%) of the tonnage of minerals removed for purposes of commercial use or sale; coal exploration subject to KRS 350.057; nor shall it include the surface effects or surface impacts of underground coal mining;

(3) "Surface coal mining and reclamation operations" means surface coal mining operations and all activities necessary and incident to the reclamation of the operations as required by this chapter;

(4) "Overburden" means material of any nature, consolidated or unconsolidated, excluding topsoil, which lies above a natural deposit of coal and also means the material after removal from its natural state in the process of surface coal mining;

(5) "Area of land affected" means any area of land or water upon which surface coal mining and reclamation operations are conducted or located or are to be conducted or located;

(6) "Operations" means surface coal mining operations, all of the premises, facilities, roads, and equipment used in the process of producing coal from a designated area or removing overburden for the purpose of determining the location, quality, or quantity of a natural coal deposit or the activity to facilitate or accomplish the extraction or the removal of coal;

(7) "Method of operation" means the method or manner by which the cut or open pit is made, the overburden is placed or handled, water is controlled, and other acts are performed by the operator in the process of uncovering and removing the coal;

(8) "Operator" means any person, partnership, or corporation engaged in surface coal mining operations who removes or intends to remove more than twenty-five (25) tons of coal from the earth by coal mining within twelve (12) consecutive calendar months in any one (1) location;

(9) "Person" means any individual, partnership, corporation, association, society, joint stock company, firm, company, or other business organization and shall also include any agency, unit, or instrumentality of federal, state, or local government including any publicly-owned utility or publicly-owned corporation of federal, state, or local government;

(10) "Cabinet" means the Natural Resources and Environmental Protection Cabinet;

(11) "Secretary" means the secretary of the Natural Resources and Environmental Protection Cabinet;

(12) "Reclamation" means the reconditioning of the area affected by surface coal mining operations under a plan approved by the cabinet;

(13) "Degree" when used in this chapter shall mean from the horizontal, and in each case shall be subject to a tolerance of five percent (5%) of error;

(14) "Bench" means the ledge, shelf, or terrace formed in the contour method of strip mining;

(15) "Approximate original contour" means that surface configuration achieved by backfilling and grading of the mined area so that the reclaimed area, including any terracing or access roads, closely resembles the general surface configuration of the land prior to mining and blends into and complements the drainage pattern of the surrounding terrain, with all highwalls and spoil piles eliminated; water impoundments may be permitted where the cabinet determines that they are in compliance with KRS 350.455;

(16) "Certification" by a qualified registered professional engineer, as required by this chapter and administrative regulations promulgated hereunder, means a good faith representation to the best of his or her knowledge and belief, based on adequate knowledge of the requirements of this chapter and administrative regulations promulgated hereunder, related experience, best professional judgment, accepted engineering practices and recognized professional standards, and standard practice as it relates to direct participation by the registered professional engineer or supervision of the registered professional engineer's employees or subordinates. Certification shall not be construed to constitute a warranty or guarantee.

(17) "Reclamation development fund" means only that reconditioning of land affected by surface mining, which will directly promote and benefit the fund administered by the Kentucky Economic Development Finance Authority to foster economic development on surface mining land.

(18) "Reclamation development project" means only that reconditioning of land affected by surface mining, which will directly promote and benefit an economic undertaking which constitutes a project under KRS 154.01-010(20).

(19) "Reclamation development plan" means a plan submitted to the cabinet to show compliance with reclamation standards, and submitted to the Kentucky Economic Development Finance Authority to seek moneys from the reclamation development fund for a reclamation development project.

(20) "Permit applicant" or "applicant" means a person applying for a permit.

(21) "Permittee" means a person holding a permit to conduct surface coal mining and reclamation operations.

(22) "Unanticipated event or condition" as used in KRS 350.085(7) means an event or condition encountered in a remining operation that was not contemplated by the applicable surface coal mining and reclamation permit.

(23) "Lands eligible for remining" means those lands that would otherwise be eligible for expenditures under KRS 350.560(1) or (2).

(24) "Coal combustion by-products" means fly ash, bottom ash, scrubber sludge, and waste from fluidized bed combustion, produced by the combustion of coal. Coal combustion by-products do not include boiler slag, or residues of refuse derived fuels, such as municipal solid waste, tires, and solvents.

HB 756, AN ACT relating to special wastes.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 224.50-760 is amended to read as follows:

(1) (a) For purposes of this section and KRS 224.46-580(7), special wastes are those wastes of high volume and low hazard which include but are not limited to mining wastes, utility wastes (fly ash, bottom ash, scrubber sludge), sludge from water treatment facilities and wastewater treatment facilities, cement kiln dust, gas and oil drilling muds, and oil production brines. Other wastes may be designated special wastes by the cabinet;

(b) Disposal sites or facilities for special wastes shall be exempt from the provisions of KRS 224.46-520 and the provisions of KRS 224.43-810, 224.43-815, and 224.46-820 to 224.46-870 but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto, unless the special waste received is listed or meets the criteria of a hazardous waste in regulations pursuant to KRS 224.46-510(3). If the special waste is a hazardous waste as specified in regulations pursuant to KRS 224.46-510(3), the site or facility shall be required by the cabinet to comply with the provisions of KRS 224.46-520 but shall not be subject to the requirements of KRS 224.40-310(6);

(c) Generators of special wastes shall register with the cabinet and be subject to the provisions of KRS 224.46-510, except for generators of coal mining wastes which shall be regulated pursuant to the provisions of KRS Chapter 350;

(d) The cabinet shall, when promulgating regulations affecting special waste, recognize special waste as a separate and distinct indivisible category and shall recognize the distinct differences between the category of special wastes and other hazardous wastes and solid wastes as defined in KRS 224.01-010(31)(a) and KRS 109.012(9) due to the fact that special wastes have large volume but low hazardousness. The cabinet's regulations for the generation, transport, recordkeeping, reporting, treatment, storage, and disposal shall reflect those distinct differences. The cabinet's regulations shall recognize and incorporate, where appropriate, and if consistent with the policies of KRS 224.46-510 to 224.46-570, any deadline extensions, studies, and specialized requirements for specific kinds of special wastes that are or may be undertaken at the federal or other levels of government; and

(e) It is the intent of the General Assembly that the processing of sludge from water treatment facilities and wastewater treatment facilities by composting shall be considered an industrial process. The cabinet shall, when promulgating administrative regulations affecting sludge from water treatment facilities and wastewater treatment facilities, consider the treatment of this sludge by composting as an industrial process. The provisions of this paragraph and subsection (3) of this section shall not apply to a city, county, urban-county government, charter county government, or special district as defined in KRS Chapter 65***, or to a public or private college or university*** that processes its own water treatment or wastewater treatment sludge by composting on property owned or leased by the city, county, urban-county government, charter county government,[~~or~~] special district***, or public or private college or university***.

(2) Generators of waste oil shall be exempt from the provisions of KRS 224.46-510 and 224.46-520 so long as waste oil is not specified as a hazardous waste in regulations pursuant to KRS 224.46-510(3) but may be regulated by the cabinet consistent with the Resource Conservation and Recovery Act of 1976, as amended (Public Law 94-580), and regulations issued pursuant thereto.

(3) A permit application to establish, operate, or modify a composting site or composting facility for the processing of water treatment sludge or wastewater treatment sludge, shall require immediately the general public notice provided for in KRS 224.40-310(4) and (5). If a hearing is requested, no permit to establish, operate, or modify a composting site or facility shall be issued prior to the public hearing. The hearing shall be held within the county where the composting site or facility is located or proposed. Composting of this sludge shall be considered an industrial process.

HB 957, AN ACT relating to floodplains and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.230 is amended to read as follows:

(1) The cabinet may establish minimum standards by administrative regulation for floodplain management. Except in local governments containing a city of the first class, local governments may establish their own standards by ordinance.

(2) In counties containing a city of the first class that have adopted a floodplain ordinance, standards relating to substantial improvements to a structure damaged by flood waters shall not be more restrictive than that prescribed by the cabinet. For purposes of administrative regulations and ordinances relating to floodplain management, "substantial improvement" shall mean any combination of repairs, reconstruction, alteration, or improvements to a structure taking place during a one (1) year period in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure.

(3) On the effective date of this Act, for purposes of floodplain management, all property shall be assessed by the property valuation administrator at one hundred percent (100%) of its fair market value with no loss of value to land or structures incurred as a result of any previous flood damage prior to the effective date of this Act. The fair market value of a structure shall be reestablished as that value calculated by the property valuation administrator on or before December 30 of each year.~~[Whenever the cabinet prescribes a standard by rule or regulation, such rule or regulation shall establish a minimum requirement concerning the matter covered thereby and shall be construed in relation to a local law, rule or regulation.]~~

Section 2. Whereas recent flood damage combined with restrictive floodplain management practices are making it nearly impossible for citizens of the Commonwealth to make necessary and affordable improvements to their homes, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

The Committee Substitute No. 1 to **HB 957** is as follows:

HB 957, AN ACT relating to floodplains and declaring an emergency.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151.230 is amended to read as follows:

(1) The cabinet may establish minimum standards by administrative regulation for floodplain management. Except in local governments containing a city of the first class, local governments may establish their own standards by ordinance.

(2) In counties containing a city of the first class that have adopted a floodplain ordinance, standards relating to substantial improvements to a structure damaged by flood waters shall not be more restrictive than that prescribed by the cabinet.

(3) For purposes of county administrative regulations and ordinances relating to floodplain management, "substantial improvement" as used in subsection (2) of this section shall mean any combination of repairs, reconstruction, alteration, or improvements to a structure taking place during a one (1) year period in which the cumulative cost equals or exceeds fifty percent (50%) of the market value of the structure.

(4) On the effective date of this Act, for purposes of floodplain management, all property shall be assessed by the property valuation administrator at one hundred percent (100%) of its fair market value with no loss of value to land or structures incurred as a result of any previous flood damage prior to the effective date of this Act. The fair market value of a structure shall be reestablished as that value calculated by the property valuation administrator on or before December 30 of each year.~~[Whenever the cabinet prescribes a standard by rule or regulation, such rule or regulation shall establish a minimum requirement concerning the matter covered thereby and shall be construed in relation to a local law, rule or regulation.]~~

(5) The provisions of subsections (3) and (4) of this section shall expire on December 31, 2002, unless reenacted by the local governing body. Nothing in this section, shall prohibit a county containing a city of the first class from amending its own floodplain ordinance at any time.

Section 2. Whereas recent flood damage combined with restrictive floodplain management practices are making it nearly impossible for citizens of the Commonwealth to make necessary and affordable improvements to their homes, an emergency is declared to exist, and this Act takes effect upon its passage and approval by the Governor or upon its otherwise becoming a law.

Calendar

HB 566, HB 667, HB 771, HB 843, HB 886, HJR 90, HCR 119, HB 572, HB 911, HB 996, HB 896, HB 389, HB 512, HB 711, HB 720, HB 763, HB 822, HB 825, HB 826, HB 842, HB 856, HB 887, HB 901, HB 910, and **HJR 113** taken from the Calendar and ordered read at length for the second time. Representative Stumbo moved that they be read by title only. Agreed by a majority of members elected. Ordered referred to the Committee on Rules.

Recess

Representative Stumbo moved to suspend the rules to allow the House to recess for a Committee on Rules meeting in the Speaker's Office. Agreed.

At the appointed hour, the Speaker resumed the Chair and called the House to order.

Representative Stumbo moved that the rules be suspended for a Committee on Rules Report. Agreed.

Report of Committees (Continued)

The Committee on Rules reported that **HB 349, SJR 57, HB 734, HB 258, HB 405, HB 512, HB 572, HB 711, HB 720, HB 763, HB 771, HB 825, HB 842, HB 887, HB 901, HB 910, HB 911, HB 996, HJR 113,** and **HCR 119** have been posted for passage in the Orders of the Day for March 9, 2000.

Orders of the Day

HB 585, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Johns moved the adoption of Floor Amendment No. 1 to **HB 585**. Agreed.

Representative Johns moved that **HB 585**, as amended, be passed.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 8, 2000 roll call on **HB 585** - Appendix.)

HB 585, as amended, was passed and the title agreed to.

Representative Johns moved that the vote by which **HB 585**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

SB 229, with House Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Thomas moved the adoption of the House Committee Substitute to **SB 229**. Agreed.

Representative Thomas moved that **SB 229**, by way of House Committee Substitute, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 8, 2000 roll call on **SB 229** - Appendix.)

SB 229, by way of House Committee Substitute, was passed and the title agreed to.

Representative Thomas moved that the vote by which **SB 229**, by way of House Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 689, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Moberly moved that **HB 689** be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 8 , 2000 roll call on **HB 689** - Appendix.)

HB 689 was passed and the title agreed to.

Representative Moberly moved that the vote by which **HB 689** was passed be reconsidered and said motion be placed on the table. Agreed.

HB 691, with Committee Substitute and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 691**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 1 to the Committee Substitute to **HB 691**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 2 to the Committee Substitute to **HB 691**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 691**. Agreed.

Representative Haydon moved the adoption of Floor Amendment No. 4 to the Committee Substitute to **HB 691**. Agreed.

Representative Haydon moved that **HB 691**, by way of Committee Substitute as amended, be passed.

Representative Bratcher moved the adoption of Floor Amendment No. 6 to the Committee Substitute to **HB 691**.

Representative Collins inquired if Floor Amendment No. 6 to the Committee Substitute was germane to **HB 691**.

The Speaker ruled Floor Amendment No. 6 to the Committee Substitute to **HB 691** was not germane.

On the roll call the vote was: **Yeas 93**, **Nays 2**. (See March 8, 2000 roll call on **HB 691** - Appendix.)

HB 691, by way of Committee Substitute as amended, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 691**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 719, with Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved the adoption of Floor Amendment No. 1 to **HB 719**. Agreed.

Representative Collins moved that **HB 719**, as amended, be passed.

On the roll call the vote was: **Yeas 95**, **Nays 3**. (See March 8, 2000 roll call on **HB 719** - Appendix.)

HB 719, as amended, was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 719**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 803 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HB 803** be passed.

On the roll call the vote was: **Yeas 97**, **Nays 0**. (See March 8 , 2000 roll call on **HB 803** - Appendix.)

HB 803 was passed and the title agreed to.

Representative Collins moved that the vote by which **HB 803** was passed be reconsidered and said motion be placed on the table. Agreed.

HCR 114 taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Collins moved that **HCR 114** be adopted.

On the roll call the vote was: **Yeas 88**, **Nays 7**. (See March 8, 2000 roll call on **HCR 114** - Appendix.)

HCR 114 was adopted.

Representative Collins' moved that the vote by which **HCR 114** was adopted be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills

The Committee on Enrollment reported that **HB 423, HB 252, HB 424, HB 507, HB 515, HB 148, HCR 12, HCR 29,** and **HCR 81** have been examined and found correctly enrolled. Said Bills and Resolutions were read at length, compared and signed in open session by the Speaker, and ordered delivered to the Senate. (Time -3:15 p.m.)

Orders of the Day (Continued)

HB 408, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Jenkins moved the adoption of the Committee Substitute to **HB 408**. Agreed.

Representative Jenkins moved that **HB 408**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 8, 2000 roll call on **HB 408** - Appendix.)

HB 408, by way of Committee Substitute, was passed and the title agreed to.

Representative Jenkins moved that the vote by which **HB 408**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 677, with Committee Substitute attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Haydon moved the adoption of the Committee Substitute to **HB 677**. Agreed.

Representative Haydon moved that **HB 677**, by way of Committee Substitute, be passed.

On the roll call the vote was: **Yeas 95, Nays 0**. (See March 8, 2000 roll call on **HB 677** - Appendix.)

HB 677, by way of Committee Substitute, was passed and the title agreed to.

Representative Haydon moved that the vote by which **HB 677**, by way of Committee Substitute, was passed be reconsidered and said motion be placed on the table. Agreed.

Report On Enrolled Bills (Continued)

HB 148, HB 252, HB 423, HB 424, HB 507, HB 515, HCR 12, HCR 29, and **HCR 81** delivered to the Senate and signed by the President. Delivered to the Governor on March 8, 2000, at 3:38 p.m.

Orders of the Day (Continued)

HB 399, with Committee Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Callahan moved the adoption of Committee Amendment No. 1 to **HB 399**. Agreed.

Representative Callahan moved that **HB 399**, as amended, be passed.

On the roll call the vote was: **Yeas 97, Nays 0**. (See March 8, 2000 roll call on **HB 399** - Appendix.)

HB 399, as amended, was passed and the title agreed to.

Representative Callahan moved that the vote by which **HB 399**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

HB 611, with Committee Substitute, Committee Amendment, and Floor Amendments attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of the Committee Substitute to **HB 611**. Agreed.

On the roll call the vote was: **Yeas 62, Nays 37**. (See March 8, 2000 roll call on the adoption of the Committee Substitute to **HB 611**-Appendix)

Committee Substitute to **HB 611** was adopted.

Representative Barrows moved the adoption of Floor Amendment No. 15 to the Committee Substitute to **HB 611**. Agreed.

Representative Barrows moved the adoption of Floor Amendment No. 18 to the Committee Substitute to **HB 611**. Agreed.

Representative Napier moved the adoption of Floor Amendment No. 3 to the Committee Substitute to **HB 611**. Defeated.

Representative Alexander moved the adoption of Floor Amendment No. 5 to the Committee Substitute to **HB 611**. Defeated.

Representative Barrows moved that **HB 611**, by way of Committee Substitute as amended, be passed.

Representative Sims moved the adoption of Floor Amendment No. 12 to the Committee Substitute to **HB 611**.

On the roll call the vote was: **Yeas 94, Nays 0**. (See March 8, 2000 roll call on the adoption of Floor Amendment No. 12 to the Committee Substitute to **HB 611**-Appendix)

Floor Amendment No. 12 to the Committee Substitute to **HB 611** was adopted.

Representative Sims moved the adoption of Floor Amendment No. 14 to the Committee Substitute to **HB 611**.

On the roll call the vote was: **Yeas 40, Nays 50**. (See March 8, 2000 roll call on the adoption of Floor Amendment No. 14 to the Committee Substitute to **HB 611**-Appendix)

Floor Amendment No. 14 to the Committee Substitute to **HB 611** was defeated.

Representative Wilkey moved the adoption of Floor Amendment No. 22 to the Committee Substitute to **HB 611**.

On the roll call the vote was: **Yeas 35, Nays 58**. (See March 8, 2000 roll call on the adoption of Floor Amendment No. 22 to the Committee Substitute to **HB 611**-Appendix)

Floor Amendment No. 22 to the Committee Substitute to **HB 611** was defeated.

Representative Nunn moved the adoption of Floor Amendment No. 9 to the Committee Substitute to **HB 611**. Defeated.

Representative Nunn moved the adoption of Floor Amendment No. 10 to the Committee Substitute to **HB 611**. Agreed.

Representative Barrows moved that **HB 611**, by way of Committee Substitute as amended, be passed.

On the roll call the vote was: **Yeas 66, Nays 32**. (See March 8, 2000 roll call on **HB 611** - Appendix.)

HB 611, by way of Committee Substitute, was passed.

Representative Barrows moved the adoption of Committee Amendment No. 1 Title to the Committee Substitute to **HB 611**. Agreed and the title was agreed to.

Representative Barrows moved that the vote by which **HB 611**, by way of Committee Substitute as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Representative Stumbo moved that **HB 593** be taken from the Orders of the Day and ordered read at length for the third time.

Representative Stumbo moved that **HB 593** be placed back in the Orders of the Day and retain it's position. Agreed.

HB 583, with Committee Amendment and Floor Amendment attached thereto, taken from the Orders of the Day and ordered read at length for the third time. Representative Stumbo moved that it be read by title only and placed upon its passage. Agreed by a majority of members elected.

Representative Barrows moved the adoption of Committee Amendment No. 1 to **HB 583**. Agreed.

Representative Barrows moved that **HB 583**, as amended, be passed.

Representative Nunn moved the adoption of Floor Amendment No. 1 to **HB 583**. Defeated.

On the roll call the vote was: **Yeas 96, Nays 1**. (See March 8, 2000 roll call on **HB 583** - Appendix.)

HB 583, as amended, was passed and the title agreed to.

Representative Barrows moved that the vote by which **HB 583**, as amended, was passed be reconsidered and said motion be placed on the table. Agreed.

Motions, Petitions, and Communications

Representative Stumbo moved that the rules be suspended to announce adjournment plans. Agreed.

Representative Stumbo moved that when the House adjourns, it does so by voice vote. Agreed.

Representative Stumbo moved that when the House adjourns, it does so until 2:00 p.m., March 9, 2000. Agreed.

Representative Stumbo moved that the three day posting requirement on **HR 150, HB 1014, SB 247, HB 789,** and **HB 796** be waived. Agreed.

Representative Stumbo moved that the rules be suspended for Introduction of Resolutions, Report of Committees and Posting of Bills and Resolutions for Consideration. Agreed.

Report of Committees (Continued)

The Committee on State Government reported **HB 248,** with Committee Substitute attached thereto, **HB 727**, with Committee Substitute and Committee Amendment attached thereto, **HB 728,** with Committee Substitute and Committee Amendment attached thereto, **HB 900**, with Committee Substitute attached thereto, **HB 946, SB 94, SB 68, SB 114, SB 166, SB 202, SB 206,** and **SB 233** with the expression of opinion that the same should pass. Read at length for the first time and ordered placed in the Calendar.

HB 248, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means*:*

(a) Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning*;*~~[.]~~

(b) ~~[Hazardous positions shall include]~~Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates*;*

(c) Alcoholic Beverage Control officers, as of July 1, 1998, the date of Kentucky Retirement Systems board approval. Notwithstanding the actual date of board approval, for purposes of determining benefits for an Alcoholic Beverage Control officer killed in the line of duty between April 1, 1998, and July 1, 1998, the agency participation date in the hazardous duty retirement program shall be considered to be April 1, 1998. Any Alcoholic Beverage Control officer killed in the line of duty after April 1, 1998, shall receive benefits as provided in KRS 16.601, 61.640, and 61.702.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) Except for the employee contribution by members of the Kentucky Employees Retirement System, the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

The Committee Substitute No. 1 to **HB 248** is as follows:

HB 248, AN ACT relating to hazardous duty retirement.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 61.592 is amended to read as follows:

(1) "Hazardous position" means*:*

(a) Any position whose principal duties involve active law enforcement, including the positions of probation and parole officer and Commonwealth detective, active fire suppression or prevention, or other positions, including, but not limited to, pilots of the Transportation Cabinet and paramedics and emergency medical technicians, with duties that require frequent exposure to a high degree of danger or peril and also require a high degree of physical conditioning*;*~~[.]~~

(b) ~~[Hazardous positions shall include]~~Positions in the Department of Corrections in state correctional institutions and the Kentucky Correctional Psychiatric Center with duties that regularly and routinely require face-to-face contact with inmates*;*

(c) The effective date of participation under hazardous duty coverage for positions in the Alcoholic Beverage Control Commission shall be April 1, 1998. The employer and employee contributions shall be paid by the employer and forwarded to the retirement system for the period not previously reported.

(2) Each employer may request of the board hazardous duty coverage for those positions as defined in subsection (1) of this section, but a county, narrowly defined as one (1) of Kentucky's one hundred and twenty (120) counties, the provisions of KRS 78.510(3) notwithstanding, shall request hazardous duty coverage for its full-time paid firefighters. Upon request, each employer shall certify to the system, in the manner prescribed by the board, the names of all employees working in a hazardous position as defined in subsection (1) of this section for which coverage is requested. The certification of the employer shall bear the approval of the agent or agency responsible for the budget of the department or county indicating that the required employer contributions have been provided for in the budget of the employing department or county. The system shall determine whether the employees whose names have been certified by the employer are working in positions meeting the definition of a hazardous position as provided by subsection (1) of this section.

(3) (a) An employee participating in the Kentucky Employees Retirement System who is determined by the system to be working in a hazardous position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, seven percent (7%) of his creditable compensation. An employee participating in the County Employees Retirement System who is determined by the system to be working in a hazardous duty position in accordance with subsection (2) of this section shall contribute, for each pay period for which he receives compensation, eight percent (8%) of his creditable compensation;

(b) Each employer shall pay employer contributions based on the creditable compensation of the employees determined by the system to be working in a hazardous position at the employer contribution rate as determined by the board. The rate shall be determined by actuarial methods consistent with the provisions of KRS 61.565;

(c) If the employer participated in the system prior to electing hazardous duty coverage, the employer may pay to the system the cost in order that the nonhazardous service be credited as hazardous service, or the employer may establish a payment schedule for payment of the cost of the hazardous service above that which would be funded within the existing employer contribution rate. The employer may extend the payment schedule to a maximum of thirty (30) years. Payments made by the employer under this subsection shall be deposited to the retirement allowance account of the proper retirement system and these funds shall not be considered accumulated contributions of the individual members. If the employer elects not to make the additional payment, the employee may make the lump-sum payment in his own behalf or may pay by increments. Payments made by the employee under this subsection shall not be picked up, as described in KRS 61.560(4), by the employer. If neither the employer nor employee makes the payment, the service prior to hazardous coverage shall remain nonhazardous.

(4) Except for the employee contribution by members of the Kentucky Employees Retirement System, the normal retirement age, retirement allowance, other benefits, eligibility requirements, rights, and responsibilities of a member in a hazardous position, as prescribed by subsections (1), (2), and (3) of this section, and the responsibilities, rights, and requirements of his employer shall be as prescribed for a member and employer participating in the State Police Retirement System as provided for by KRS 16.510 to 16.652. The employee contribution for a member of the Kentucky Employees Retirement System shall be seven percent (7%).

(5) Any person employed in a hazardous position after July 1, 1972, shall be required to undergo a thorough medical examination by a licensed physician, and a copy of the medical report of the physician shall be retained on file by the employee's department or county and made available to the system upon request.

(6) If doubt exists regarding the benefits payable to a hazardous position employee under this section, the board shall determine the benefits payable under KRS 61.515 to 61.705, or 78.520 to 78.852, or 16.510 to 16.652.

HB 727, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.010 is amended to read as follows:

As used in this chapter, and throughout the Kentucky Revised Statutes,~~[where applicable and appropriate]~~ unless the context requires otherwise:

(1) "Organizational unit" means any unit of organization in the executive branch of the state government that is not an administrative body, including, but not limited to, any agency, program cabinet, department, bureau, division, section, or office;

(2) "Department" means that basic unit of administrative organization of state government, by whatever name called, designated by statute or by statutorily authorized executive action as a "department,"~~[such organization to be]~~ headed by a commissioner;

(3) "Division" means a major subdivision of a department established by statute or by statutorily authorized administrative action,~~[such to be]~~ headed by a director;

(4) "Branch" means a small grouping of logical work force personnel,~~[such to be]~~ headed by a manager;

(5) "Section" means a smaller grouping within a branch,~~[such to be]~~ headed by a supervisor;

(6) "Unit" means the smallest grouping of coordinated employees,~~[such to be]~~ headed by a leader;

(7) "Office" means a staff support or administrative function and shall be a major subdivision of a program cabinet only,~~[such to be]~~ headed by an executive director;

(8) "Administrative body" means any multi-member body in the executive branch of the state government, including, but not limited to, any board, council, commission, committee, authority, or corporation, but does not include "branch," "section," "unit," or "office";

(9) "Program cabinet" means a group of departments, or departments and administrative bodies, designated by statute or statutorily authorized executive action as a "program cabinet."

The Committee Substitute No. 1 to **HB 727** is as follows:

HB 727, AN ACT relating to the identification of certain bills to be introduced in the General Assembly.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 7 IS CREATED TO READ AS FOLLOWS:

(1) When a state agency, board, commission, public corporation, or other organization created by statute or executive order, or state officer submits a bill for introduction in the General Assembly and submits a prepared draft to a sponsor or to the Legislative Research Commission, the front page of the bill, when filed or prefiled, shall bear the legend "AGENCY DRAFT".

(2) When any prepared draft of a bill other than one specified in subsection (1) of this section is submitted to a member of the General Assembly and is filed or prefiled by the sponsor, the front page of the bill shall bear the legend "SUBMITTED DRAFT".

(3) The provisions of this section shall not apply where a Legislative Research Commission drafter has substantially altered the draft which was presented. The drafter shall notify the sponsor of the bill and the Director of the Legislative Research Commission or the director's designee when a bill subject to the provisions of subsection (1) or subsection (2) of this section has been substantially altered.

The Committee Amendment No. 1 Title to **HB 727** is as follows:

The title, to delete the title appearing thereon and to insert in lieu thereof: "AN ACT relating to the identification of certain bills to be introduced in the General Assembly.".

HB 728, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 12.029 is amended to read as follows:

The Governor may appoint advisory or study committees to assist and recommend to him ***or her*** on problems concerning the various functions, organizational units***,*** and administrative bodies of state government. Members of ***these***[~~such~~] committees shall serve without pay[~~,~~] but shall be reimbursed for necessary and actual expenses.

The Committee Substitute No. 1 to **HB 728** is as follows:

HB 728, AN ACT relating to state government.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 64 IS CREATED TO READ AS FOLLOWS:

(1) There is hereby established an advisory council to be known as the Executive Branch Compensation Advisory Council.

(a) The council shall consist of three (3) voting members: the state budget director, the secretary of the Governor's Executive Cabinet, and the secretary of the Finance and Administration Cabinet.

(b) The state budget director shall serve as the chair of the council.

(c) If a voting member is unable to attend a meeting of the council, he shall designate, in writing, a member of his staff to attend in his place, and such designation shall confer on such designee, for that meeting only, the authority to act, including the right to vote on any matter coming before the council.

(2) The council shall be attached to the Personnel Cabinet for administrative purposes. Personnel Cabinet staff shall provide necessary administrative and operational support for the council. The council may, from time to time, utilize the services of professional and technical personnel employed by other agencies of state government, if the need arises. The council shall meet on a quarterly basis at a time and place to be determined by the council. Additional meetings may be called upon request of two (2) voting members of the council.

(3) The duties of the council shall include the following:

(a) Advise and make recommendations to the secretary of the Personnel Cabinet on appropriate salaries for the following:

1. The heads of the various departments in the executive branch of state government, with the exception of:

a. Departments headed by constitutionally elected officers;

b. The Department of Education; and

c. The Council on Postsecondary Education;

2. The heads of offices, as defined in KRS 12.010;

3. The administrative heads of boards and commissions and for their employees, if they are not covered by the salary schedules set forth in KRS Chapter 16, KRS Chapter 18A, or KRS Chapter 151B, notwithstanding any other statute to the contrary empowering a board, commission, authority, or other administrative body to establish, set, or approve the salaries of its administrative head and other employees;

4. Requests from boards, commissions, or cabinet heads to approve salary increases in excess of those increases provided other state employees to individuals in the positions listed in paragraphs (a), (b), and (c) of this subsection;

(b) Advise the secretary of the Personnel Cabinet on requests from agencies to establish or abolish a separate salary schedule, or schedules, reflective of the marketplace need to recruit and hire classified employees in technical or professional fields when the classified service salary schedule is inadequate. A positive recommendation of such requests shall not be granted unless significant credible evidence exists of a job market shortage and an inadequacy of the classified or unclassified salary schedules to recruit and retain competent, qualified applicants for such positions; and

(c) Recommend that the Personnel Cabinet conduct salary surveys of the executive branch positions outlined in subsection (3)(a)1., 2., and 3. of this section, using state governments in the seven (7) states contiguous to the Commonwealth, other states in the southeastern United States~~,~~ ***and private sector employers, where appropriate.***

(4) The council's recommendations shall:

(a) Take into consideration the provisions of Section 2 of this Act, if the specific position in question is subject to the provisions of Section 2 of this Act; and

(b) Not take into consideration the provisions of Section 2 of this Act, if the specific position in question is exempt from the provisions of Section 2 of this Act.

Section 2. KRS 64.640 is amended to read as follows:

(1) Except as otherwise provided in subsection (2) of this section, and excepting officers elected by popular vote, employees of the General Assembly, including employees of the Legislative Research Commission, members of boards and commissions, those officers and employees of Kentucky Educational Television exempt from classified service as provided in KRS 18A.115, presidents and employees of the state universities and the state colleges, and persons employed by the commissioner of parks on a temporary basis under KRS 148.026, the Personnel Cabinet shall prepare ***schedules***[~~a schedule~~] of compensation, payable out of the State Treasury, with a minimum[~~ and maximum~~] salary rate, and ***other***[~~such intermediate~~] salary rates as are deemed necessary or advisable, for the office or position of employment of every state officer and employee, including specifically the offices and positions of employment in every constitutional administrative department, statutory administrative department, independent agency, ***board, commission*** or other unit of state government. ***The language of any statute empowering a board, commission, authority, or other administrative body to establish, set, or approve the salaries of its administrative head and other employees to the contrary notwithstanding, the establishment or setting of salaries for administrative heads or other employees shall be subject to the approval of the secretary of the Personnel Cabinet. The***[~~Such~~] schedules ***and rates*** shall be based upon studies of the duties and responsibilities of the offices and positions and upon a comparison with rates being paid for similar or comparable services elsewhere, and in the preparation of such schedules, the Personnel Cabinet shall ascertain and record the duties, responsibilities, and authority pertaining to the various offices and positions in the state service, and classify such positions in the manner provided in KRS 18A.030, 18A.035, 18A.110, 18A.130, 18A.135, and 18A.150 to 18A.160. No such schedule shall become effective until it has been approved by the Governor ***by executive order***.

(2) The Governor shall set the compensation payable out of the State Treasury to each officer or position in the state service, which officer or position heads a statutory administrative department, independent agency, or other unit of state government except for those excluded under subsection (1) of this section. Such compensation shall be based upon studies of the duties and responsibilities and classification of the positions by the Governor and upon a comparison with compensation being paid for similar or comparable services elsewhere, provided, however, such compensation shall not exceed the amount provided for compensation to the Governor in KRS 64.480, the provisions of KRS 64.660 to the contrary notwithstanding.

(3) The compensation payable out of the State Treasury to officers and employees subordinate to any office or position covered by subsection (2) of this section shall not exceed the maximum rate established pursuant to subsection (2) of this section for such office or position, except with respect to physicians as provided in KRS 64.655 and employees of the Public Service Commission of Kentucky whose compensation shall be fixed, within constitutional limits, by the Personnel Cabinet with the approval of the Governor as provided in subsection (1) of this section.

(4) Nothing in this section shall preclude the allowance of maintenance to officers and employees of the state.

Section 3. KRS 64.690 is amended to read as follows:

(1) Except as provided in KRS 64.610 and in this section, KRS 64.480 to 64.740 are intended to supersede any existing

statute, fixing the compensation, or authorizing any public officer or body to fix the compensation, of any public officer or employee covered by KRS 64.480 to 64.740.

(2) Any public officer or body which has authority to fix the compensation of any state officer or employee covered by ***Section 2 of this Act***~~[KRS 64.640]~~ shall exercise such authority, subject to the schedule and limits of compensation for the particular office or position prescribed ***in Section 2 of this Act***~~[under KRS 64.640]~~. ***The secretary of the Personnel Cabinet shall have the authority to monitor and require compliance with the provisions of Sections 1 to 3 of this Act.***

(3) KRS 64.480 to 64.740 are not intended to supersede any existing statute, with respect to the compensation of circuit clerks, county clerks, sheriffs, master commissioners, and receivers, and their deputies and assistants, in counties containing a population of seventy thousand (70,000) or more, or property valuation administrators, their deputies, and assistants, in any county.

Section 4. KRS 18A.195 is amended to read as follows:

(1) A state employee who is authorized to work one (1) or more hours in excess of the prescribed hours of duty shall be granted compensatory leave on an hour-for-hour basis. Upon the written request of an employee ***who is not exempt from the provisions of the Federal Fair Labor Standards Act, 29 U.S.C. sec. 201, et seq.***, an appointing authority may grant compensatory time, in lieu of overtime pay, at the rate of one and one-half (1.5) hours for each hour the employee is authorized to work in excess of forty (40) hours in a work week. An employee who is transferred or otherwise changed from the jurisdiction of one agency to another shall retain his compensatory leave in the receiving agency.

(2) Any employee who leaves state service shall be paid for the balance of unused compensatory time.

The Committee Amendment No. 1 Title to **HB 728** is as follows:

Delete the title and insert in lieu thereof the following:

"AN ACT relating to state employee compensation."

HB 900, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly, through the work of the DPTS/911 Task Force, has determined that it is important to work toward an ideal situation, wherein every 911 call reaches the right public safety answering point (PSAP), and where the call taker at a PSAP with enhanced capabilities has access to sufficient information to properly handle the call rapidly and accurately. The work of the task force has shown that imaginative, cost-effective solutions can be found that balance the needs of the business community with the goal of increased public safety. With this balance in mind, the General Assembly directs that the Commonwealth shall move toward this ideal situation through the implementation of the provisions of this Act.

Section 2. KRS 65.750 is amended to read as follows:

As used in this section to KRS 65.760:

(1) "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to place calls to a public safety answering point on a twenty-four (24) hour basis and reach local emergency service agencies by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services. The term "911 emergency telephone service" includes the term wireline "enhanced 911 system," which means an emergency telephone system that provides the caller with wireline emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and may provide the capability for automatic number identification, pseudo-automatic number identification, selective routing, and automatic location identification features. As used in KRS 65.760, the term "911 emergency telephone service" does not include the term "wireless enhanced 911 system," "wireless enhanced 911 service," or "wireless E911 service" as used in KRS 65.7621 to 65.7643;

(2) "Automatic number identification (ANI)" means ***an enhanced 911 service capability that enables***~~[a feature that allows for]~~ the automatic display of the ten (10) digit ***telephone*** number, or equivalent, used to place a 911 call;

(3) "Automatic location identification (ALI)" means a feature by which the name and ***physical location***~~[address]~~ associated with the calling party's telephone number is made available to a PSAP;

(4) "Automatic location identification data management system (ALI/DBS)" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(5) ~~["Dispersed private telephone system (DPTS)" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures but does not mean a multiline,~~

~~shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;~~

~~(6) "Fully~~]Enhanced 911 emergency telephone service" means a telephone network feature that selectively routes calls placed to the national 911 emergency number to the proper public ***safety***[~~service~~] answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(6) "Key system" means a telephone system in which the telephones have multiple buttons permitting the user to directly select central office phone lines and intercom lines;

(7) "Local exchange carrier" means any person or entity who is authorized to provide telephone exchange service or exchange access;

(8)[~~(7)~~]"Private branch exchange (PBX)" means a ***telecommunications***[~~privately owned switch~~] system that ***routes***[~~connects~~] calls ***from within that system through a central location and then to the local exchange carrier***[~~to a telephone company~~];

(9) "Private telephone system (PTS)" means a telecommunications system privately owned and operated for the benefit of the owner;

(10)[~~(8)~~] "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies; ***and***

(11) "Shared tenant system" means centralized telecommunications services provided for compensation to tenants in a building or complex[

~~(9) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber; and~~

~~(10) "Station identification number (SIN)" means a number that a DPTS uses to identify a specific station on the switch~~].

Section 3. KRS 65.752 is amended to read as follows:

(1) Any ***business or residential shared tenant private telephone system***[~~DPTS~~] located in an area that has adopted enhanced 911 emergency service***, by January 1, 2003, or two (2) years after availability of enhanced 911 service, whichever is later,*** shall[~~ within three (3) years of the date of its adoption, or if already adopted within three (3) years after July 15, 1998, be able to~~]:

(a)[~~ Operate effectively within an enhanced 911 system;~~

~~(b)~~] Transmit ***to the local exchange carrier*** a ***numerical identifier***[~~SIN~~] for ***any extension***[~~the station~~] that[~~ directly~~] dials the emergency number 911[~~ to the service supplier~~]; and

(b)[~~(c)~~]Provide the ***local exchange carrier or other ALI/DBS provider***[~~service supplier~~] with the ***numerical identifier and precise physical location of each extension operating within the private telephone system and update this information***[~~following system information that shall be updated~~] within five (5) business days ***of being notified***[~~if~~] changes ***that*** occur within the system[~~:~~

~~1. Number of incoming trunk connections to the enhanced 911 system; and~~

~~2. SIN, sublocation, such as floor or apartment number, if applicable, and street address of each station that may originate an emergency call~~].

(2) Any subscriber to a business or residential shared tenant private telephone system shall inform the owner and operator of the private telephone system of any change in ALI or ANI data associated with the subscriber's extension. The subscriber shall notify the private telephone system owner and operator within five (5) business days of the change in subscriber information[

~~(2) In areas where fully enhanced 911 service has been implemented, the service supplier shall, at a minimum, make the verified ANI and ALI provided by the DPTS available to a PSAP for a fully enhanced 911 call.~~

~~(3) In areas where fully enhanced 911 service has been implemented, the service supplier shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on DPTS, except when the release of the information is ordered by a court of competent jurisdiction.~~

~~(4) In areas where enhanced 911 service has been implemented, an employee of a PSAP shall not retrieve or disclose ALI information except in response to a 911 call or for the purpose of maintaining the ALI database, unless ordered by a court of competent jurisdiction~~].

SECTION 4. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 2003, or two (2) years after availability of enhanced 911 service, whichever is later, any private telephone system serving any building larger than twenty-five thousand (25,000) square feet or serving multiple locations shall:

(a) Provide to the local exchange carrier ALI data for at least one (1) extension in each location and each logically identifiable subdivision within each location including, but not limited to, buildings, floors, and wings; and

(b) Provide the local exchange carrier with updated ALI data within five (5) days of any change.

(2) Any new private telephone system purchased after January 1, 2001, shall:

(a) Be compatible with enhanced 911 if purchased for use within an area where enhanced 911 is available; or

(b) Be made compatible with enhanced 911 service within two (2) years of enhanced 911 availability.

(3) Facilities with twenty-four (24) hour security personnel or utilizing a key system are exempt from the requirements of subsection (1) of this section.

SECTION 5. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) All owners of private telephone systems operating where enhanced 911 service is available, including those exempted from other requirements by subsection (3) of Section 4 of this Act, shall develop and file an emergency location identification plan with the PSAP and dispatchers for local EMS, fire, and police departments. For owners in areas where enhanced 911 is available on the effective date of this Act, the plan shall be filed by January 1, 2001. In those areas, purchasers of new private telephone systems shall file a plan within one hundred eighty (180) days following installation. In areas not served by enhanced 911 on the effective date of this Act, owners shall file plans within one hundred eighty (180) days of enhanced 911 availability or within one hundred eighty (180) days of a new system purchase, whichever is later. The plan shall include, but not be limited to, the following:

(a) Detailed map of all facilities and locations served by the private telephone system;

(b) Location identification information for all extensions;

(c) Detailed instructions for PSAP dispatch; and

(d) Information regarding employee safety and security training.

(2) The contents of emergency location identification plans prepared in accordance with this section shall be treated as confidential by the Commonwealth within the meaning of KRS 61.878(1)(l) and shall not be considered a public record under the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 6. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) There is created, within the Governor's Office of Technology, the Office of Statewide 911 Coordination. The Office of Statewide 911 Coordination shall have responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for PSAPs and private telephone system owners and operators.

(2) The coordinator shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section, and to set penalties for violations of the provisions of Sections 3, 4, 5, and 7 of this Act.

(3) PSAPs shall compile and maintain statistical data regarding the incidence of incorrect or delayed dispatch, the reasons therefor, and such other data as required by administrative regulation. PSAPs shall submit these data, along with conclusions drawn and remedial action taken or planned, to the Office of Statewide 911 Coordination.

(4) Any entity providing telephone service and vendors of private telephone systems shall disclose to PSAPs and to the Office of Statewide 911 Coordination the names and addresses of all businesses and other customers using private telephone systems.

(5) The coordinator shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment. The report shall also include the data collected on emergency telephone response required by this section and suggested methods for improving response time and eliminating errors.

(6) The office shall, in conjunction with local public safety officials and PSAPs, develop criteria whereby waivers or partial waivers may be granted from the requirements of Sections 3 and 4 of this Act.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) All local exchange carriers or shared tenant private telephone systems providing telephone service in areas with 911 or enhanced 911 service shall provide the following:

(a) Full connectivity with the existing 911 service in that area; and

(b) In areas served by enhanced 911, current, accurate ANI and ALI data to PSAP personnel.

(2) All entities providing telephone service shall collect and remit all appropriate fees.

(3) Any person with access to ALI/DBS data shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on a private telephone system, except when the release of the information is ordered by a court of competent jurisdiction or requested by the statewide 911 coordinator.

Section 8. KRS 65.760 is amended to read as follows:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county, or urban-county government and may adopt regulations concerning the provision of this service by ordinance.

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state. The special tax, license, or fee may include a subscriber charge for 911 emergency telephone service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per account per government entity. Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point. All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for the establishment, operation, and maintenance of a 911 emergency communications system; this may include expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service.

(4) ***The special tax, license, or fee authorized by subsection (3) of this section may include a subscriber charge for 911 emergency telephone service to be levied on each exchange line. Within any PSAP service area, no customer account shall be charged for more than twenty-five (25) lines.***

(5) Any owner of a private telephone system that provides local telephone access and 911 emergency service to subscribers for compensation shall collect and remit to the local government any subscriber charge on the same basis as the primary local exchange carrier.

(6) The governing body may apply for and accept federal moneys and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(7)~~[(5)]~~Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

Section 9. The following KRS section is repealed:

65.754 Penalties for violations of KRS 65.752.

The Committee Substitute No. 1 to **HB 900** is as follows:

HB 900, AN ACT relating to telecommunications.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly, through the work of the DPTS/911 Task Force, has determined that it is important to work toward an ideal situation, wherein every 911 call reaches the right public safety answering point (PSAP), and where the call taker at a PSAP with enhanced capabilities has access to sufficient information to properly handle the call rapidly and accurately. The work of the task force has shown that imaginative, cost-effective solutions can be found that balance the needs of the business community with the goal of increased public safety. With this balance in mind, the General Assembly directs that the Commonwealth shall move toward this ideal situation through the implementation of the provisions of this Act.

Section 2. KRS 65.750 is amended to read as follows:

As used in this section to KRS 65.760:

(1) "911 emergency telephone service" means a telephone service which provides the user of the public telephone system the ability to place calls to a public safety answering point on a twenty-four (24) hour basis and reach local emergency service agencies by dialing the digits 9-1-1. Such a service is capable, at minimum, of transmitting requests for law enforcement, firefighting, and emergency medical and ambulance services to a public safety agency or other provider that provides the requested service at the place where the call originates. A 911 emergency telephone service may also provide for other emergency services. The term "911 emergency telephone service" includes the term wireline "enhanced 911 system," which means an emergency telephone system that provides the caller with wireline emergency 911 system service and, in addition, directs 911 calls to appropriate public safety answering points based on the geographical location from which the call originated and may provide the capability for automatic number identification,~~[pseudo-automatic number identification,]~~ selective routing, and automatic location identification features. As used in KRS 65.760, the term "911 emergency telephone service" does not include the term "wireless enhanced 911 system," "wireless enhanced 911 service," or "wireless E911 service" as used in KRS 65.7621 to 65.7643;

(2) "Automatic number identification (ANI)" means ***an enhanced 911 service capability that enables***~~[a feature that allows for]~~ the automatic display of the ten (10) digit ***telephone*** number, or equivalent, used to place a 911 call;

(3) "Automatic location identification (ALI)" means a feature by which the name and ***physical location***[~~address~~] associated with the calling party's telephone number is made available to a PSAP;

(4) "Automatic location identification data management system (ALI/DBS)" means a system of manual procedures and computer programs used to create, store, and update the data required for ALI in support of enhanced 911;

(5) [~~"Dispersed private telephone system (DPTS)" means a multiline, shared tenant system or PBX used for the purpose of reselling telephone service to residential customers and whose connection to a telephone network is capable of carrying emergency calls from more than one (1) specific location within a structure or structures but does not mean a multiline, shared tenant system or PBX owned and operated by a state agency or used in providing service within a hotel or motel;~~

~~(6) "Fully~~]Enhanced 911 emergency telephone service" means a telephone network feature that[~~ selectively~~] routes calls placed to the national 911 emergency number to the ***predetermined***[~~proper~~] public ***safety***[~~service~~] answering points (PSAPs) and provides the PSAP with a voice connection and ANI and ALI information;

(6) "Key system" means a telephone system in which the telephones have multiple buttons permitting the user to directly select central office phone lines and intercom lines;

(7) "Local exchange carrier" means any person or entity who is authorized to provide telephone exchange service or exchange access;

(8)[~~(7)~~]"Private branch exchange (PBX)" means a ***telecommunications***[~~privately owned switch~~] system that ***routes***[~~connects~~] calls ***from within that system through a central location and then to the local exchange carrier***[~~to a telephone company~~];

(9) "Private telephone system (PTS)" means a telecommunications system privately owned and operated for the benefit of the owner;

(10)[~~(8)~~] "Public safety answering point" or "PSAP" means a communications facility that is assigned the responsibility to receive 911 calls originating in a given area and, as appropriate, to dispatch public safety services or to extend, transfer, or relay 911 calls to appropriate public safety agencies; ***and***

(11) "Shared tenant system" means centralized telecommunications services provided for compensation to tenants in a building or complex[

~~(9) "Service supplier" means a person or entity that administers, maintains, and operates the ALI/DBS and may include telephone companies that provide local exchange telephone service to a telephone subscriber; and~~

~~(10) "Station identification number (SIN)" means a number that a DPTS uses to identify a specific station on the switch~~].

Section 3. KRS 65.752 is amended to read as follows:

(1) Any ***business or residential shared tenant private telephone system***[~~DPTS~~] located in an area that has adopted enhanced 911 emergency service***, by January 1, 2003, or two (2) years after availability of enhanced 911 service, whichever is later,*** shall[~~ within three (3) years of the date of its adoption, or if already adopted within three (3) years after July 15, 1998, be able to~~]:

(a)[~~ Operate effectively within an enhanced 911 system;~~

~~(b)~~] Transmit ***to the local exchange carrier*** a ***numerical identifier***[~~SIN~~] for ***any extension***[~~the station~~] that[~~ directly~~] dials the emergency number 911[~~ to the service supplier~~]; and

(b)[~~(c)~~]Provide the ***local exchange carrier or other ALI/DBS provider***[~~service supplier~~] with the ***numerical identifier and precise physical location of each extension operating within the private telephone system and update this information***[~~following system information that shall be updated~~] within five (5) business days ***of being notified***[~~if~~] changes ***that*** occur within the system[~~:~~

~~1. Number of incoming trunk connections to the enhanced 911 system; and~~

~~2. SIN, sublocation, such as floor or apartment number, if applicable, and street address of each station that may originate an emergency call~~].

(2) Any subscriber to a business or residential shared tenant private telephone system shall inform the owner and operator of the private telephone system of any change in ALI or ANI data associated with the subscriber's extension. The subscriber shall notify the private telephone system owner and operator within five (5) business days of the change in subscriber information[

~~(2) In areas where fully enhanced 911 service has been implemented, the service supplier shall, at a minimum, make the verified ANI and ALI provided by the DPTS available to a PSAP for a fully enhanced 911 call.~~

~~(3) In areas where fully enhanced 911 service has been implemented, the service supplier shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on DPTS, except when the release of the information is ordered by a court of competent jurisdiction.~~

~~(4) In areas where enhanced 911 service has been implemented, an employee of a PSAP shall not retrieve or disclose ALI information except in response to a 911 call or for the purpose of maintaining the ALI database, unless ordered by a court of competent jurisdiction~~].

SECTION 4. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) By January 1, 2003, or two (2) years after availability of enhanced 911 service, whichever is later, any private telephone system serving any building larger than twenty-five thousand (25,000) square feet or serving multiple locations shall:

(a) Provide to the local exchange carrier ALI data for at least one (1) extension in each location and each logically identifiable subdivision within each location including, but not limited to, buildings, floors, and wings; and

(b) Provide the local exchange carrier with updated ALI data within five (5) days of any change.

(2) Any new private telephone system purchased after January 1, 2001, shall:

(a) Be compatible with enhanced 911 if purchased for use within an area where enhanced 911 is available; or

(b) Be made compatible with enhanced 911 service within two (2) years of enhanced 911 availability.

(3) Facilities utilizing a key system and facilities with on-site security personnel on duty during all hours in which the facility is usually occupied shall be exempt from the requirements of subsection (1) of this section.

SECTION 5. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) All owners of private telephone systems operating where enhanced 911 service is available, including those exempted from other requirements by subsection (3) of Section 4 of this Act, shall develop and file an emergency location identification plan with the PSAP and dispatchers for local EMS, fire, and police departments. For owners in areas where enhanced 911 is available on the effective date of this Act, the plan shall be filed by January 1, 2001. In those areas, purchasers of new private telephone systems shall file a plan within one hundred eighty (180) days following installation. In areas not served by enhanced 911 on the effective date of this Act, owners shall file plans within one hundred eighty (180) days of enhanced 911 availability or within one hundred eighty (180) days of a new system purchase, whichever is later. The plan shall include, but not be limited to, the following:

(a) A map of all facilities and locations served by the private telephone system showing entrances, exits, the numbers or other designations of rooms, wings, and any other significant subdivision of the facility, and the location of fire suppression and first aid equipment;

(b) Location identification information for all extensions; and

(c) Instructions for PSAP dispatch including the anticipated locations and activities of employee responders.

(2) The contents of emergency location identification plans prepared in accordance with this section shall be treated as confidential by the Commonwealth within the meaning of KRS 61.878(1)(l) and shall not be considered a public record under the Kentucky Open Records Law, KRS 61.870 to 61.884.

SECTION 6. A NEW SECTION OF KRS 65.750 TO 65.760 IS CREATED TO READ AS FOLLOWS:

(1) There is created, within the Governor's Office of Technology, the Office of Statewide 911 Coordination. The Office of Statewide 911 Coordination shall have responsibility for monitoring, enforcing, and coordinating 911 and enhanced 911 system compliance and implementation statewide. The office shall include a statewide 911 coordinator along with appropriate staff to accomplish the objectives as stated in this section. The office shall provide education, training, and technical assistance for PSAPs and private telephone system owners and operators.

(2) The coordinator shall promulgate administrative regulations in accordance with KRS Chapter 13A to implement the requirements of this section, and to set penalties for violations of the provisions of Sections 3, 4, 5, and 7 of this Act.

(3) PSAPs shall compile and maintain statistical data regarding the incidence of incorrect or delayed dispatch, the reasons therefor, and such other data as required by administrative regulation. PSAPs shall submit these data, along with conclusions drawn and remedial action taken or planned, to the Office of Statewide 911 Coordination.

(4) Any entity providing telephone service and vendors of private telephone systems shall disclose to PSAPs and to the Office of Statewide 911 Coordination the names and addresses of all businesses and other customers using private telephone systems.

(5) The coordinator shall make a report to the Legislative Research Commission in August of each year preceding the regular session. The report shall contain recommendations concerning necessary modifications to compliance requirements occasioned by technological and other advances or changes in telephone system equipment. The report shall also include the data collected on emergency telephone response required by this section and suggested methods for improving response time and eliminating errors.

(6) The office shall, in conjunction with local public safety officials and PSAPs, develop criteria whereby waivers or partial waivers may be granted from the requirements of Sections 3 and 4 of this Act. Criteria to be considered in granting waivers or partial waivers may include, but not be limited to, facility size, number of personnel, ongoing construction or renovation, or financial burden. Parties aggrieved by any decision of the office with respect to waivers or partial waivers may appeal that decision in writing to the county judge-executive of the county in which the facility is located. Administrative regulations governing this appeal process shall be promulgated in accordance with KRS Chapter 13A by the Office of Statewide 911 Coordination.

SECTION 7. A NEW SECTION OF KRS CHAPTER 65 IS CREATED TO READ AS FOLLOWS:

(1) All local exchange carriers or shared tenant private telephone systems providing telephone service in areas with 911 or enhanced 911 service shall provide the following:

(a) Full connectivity with the existing 911 service in that area; and

(b) In areas served by enhanced 911, current, accurate ANI and ALI data to PSAP personnel.

(2) Any person with access to ALI/DBS data shall maintain the confidentiality and privacy of all information contained in the ALI/DBS, including any information that identifies telephone calls made from extensions on a private telephone system, except when the release of the information is ordered by a court of competent jurisdiction or requested by the statewide 911 coordinator.

Section 8. KRS 65.760 is amended to read as follows:

(1) Any city, county, or urban-county government may establish 911 emergency telephone service upon approval of the governing body of the city, county, or urban-county government and may adopt regulations concerning the provision of this service by ordinance. ***The Kentucky State Police may establish 911 service in any area where it does not already exist by entering into cooperation agreements with all relevant local governmental entities.***

(2) Any city, county, or urban-county government, or any combination thereof, may with the approval of their governing bodies enter into an interlocal cooperation agreement creating a joint 911 emergency telephone service.

(3) The funds required by a city, county, or urban-county government to establish and operate 911 emergency telephone service, or to participate in joint service with other local governments, may be obtained through the levy of any special tax, license, or fee not in conflict with the Constitution and statutes of this state.~~[The special tax, license, or fee may include a subscriber charge for 911 emergency telephone service that shall be levied on an individual exchange-line basis, limited to a maximum of twenty-five (25) exchange lines per account per government entity. Any private commercial telephone service or owner of a dispersed private telephone system (DPTS) that provides local and 911 emergency service to subscribers for compensation shall collect and remit the subscriber charge to the local government on the same basis as the primary local exchange carrier, except that this requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point.]~~ All revenues from a tax or fee expressly levied to fund 911 emergency services shall be expended solely for the establishment, operation, and maintenance of a 911 emergency communications system; this may include expenditures to train communications personnel and to inform the public of the availability and proper use of 911 service.

(4) ***The special tax, license, or fee authorized by subsection (3) of this section may include a subscriber charge for 911 emergency telephone service to be levied on each exchange line. Within any PSAP service area, no customer account shall be charged for more than twenty-five (25) lines.***

(5) Any owner of a private telephone system that provides local telephone access and 911 emergency service to subscribers for compensation shall collect and remit to the local government any subscriber charge on the same basis as the primary local exchange carrier. This requirement shall not apply to a state agency that currently maintains an independent 911 system with its own public safety answering point.

(6) The governing body may apply for and accept federal moneys and may accept contributions and donations from any source for the purpose of funding 911 emergency telephone service.

(7)~~[(5)]~~Nothing in this section shall preclude other means of establishing or funding a 911 emergency telephone service within any local area or exchange, nor require the operation of such service by any local government.

Section 9. The following KRS section is repealed:

65.754 Penalties for violations of KRS 65.752.

HB 946, AN ACT relating to travel.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 45.101 is amended to read as follows:

(1) Except as otherwise provided by law, each state officer or employee who is authorized by law to receive, from corporations or from the State Treasury or from any fund appropriated out of the State Treasury, traveling or other expenses incident to the discharge of official duties shall submit to the Finance and Administration Cabinet information regarding the expenses and necessary receipts as provided by administrative regulation promulgated by the Finance and Administration Cabinet, provided that any expenses in excess of ten dollars ($10) shall be accompanied by a receipt, unless the Finance and Administration Cabinet increases the minimum expense amount for which a receipt is required as provided in this section. The required information and documentation shall be provided before the cabinet shall audit or pay the expenses. The Finance and Administration Cabinet may promulgate an administrative regulation to increase the minimum expense amount for which a receipt is required, not to exceed twenty-five dollars ($25). The Finance and Administration Cabinet may rely on a preaudit performed by the budget unit as a basis for issuing a warrant.

(2) The Finance and Administration Cabinet may promulgate administrative regulations to permit budget units to contract with airlines, railroads, hotels, or other companies for services to a group of their employees while on official travel status. The expenses are to be submitted to the Finance and Administration Cabinet on forms prescribed by the Finance and Administration Cabinet before the cabinet shall audit or pay the expenses.

(3) The Finance and Administration Cabinet may promulgate administrative regulations to permit state officers or employees to assign their claim for reimbursement of travel expenses to airline, railroad, hotel, or other companies in payment of services rendered as provided for in subsections (1) and (2) of this section.

(4) Each state officer or employee who by reason of the duties assigned to the officer's or employee's office is required to be at the state capital for the majority of the time, or who has an office located at the state capital, shall not be permitted to charge for expenses except from the state capital to the place where the business the officer or employee is transacting is to be transacted, and from that place back to the state capital, and each officer or employee who is assigned to duty at some place other than the state capital shall only be permitted to charge to the state such expenses as are incurred in going from that place to the place where the business is transacted, and returning. Expenses in going from the state capital or the place where the officer or employee is assigned to duty to the officer's or employee's real place of residence, or in return therefrom, shall not be allowed unless it is shown that it was necessary for the officer or employee to make the trip in the discharge of business for the state.

(5) The Finance and Administration Cabinet may promulgate administrative regulations to permit the payment of travel and other expenses incidental to the official activities of formally organized groups sponsored by or otherwise representing state agencies. The payment may be made direct to service establishments in the manner set forth in subsection (3) of this section, by an inter-account bill between budget units, or by reimbursement to the official or other employee who has been designated as the officer-in-charge of the organized group. If it is necessary that one (1) or more state employees or officials travel with the group, their expenses may be included in the total expenses for the group.

(6) The Finance and Administration Cabinet may promulgate administrative regulations allowing heads of budget units to establish imprest cash funds for reimbursement of travel expenses.

(7) Except as provided in KRS Chapter 6, but the provisions of any other laws to the contrary notwithstanding, and in lieu of the reimbursement of travel and other incidental expenses authorized by subsection (1) of this section, the Finance and Administration Cabinet may promulgate administrative regulations to provide for the payment of a fixed expense allowance per day to be established by the secretary of the Finance and Administration Cabinet, plus necessary travel expenses, to each state officer or employee who is authorized by law to be reimbursed for expenses incurred in the discharge of official duties. ***If a state officer or employee's official duties require overnight lodging, regardless of the distance traveled within the state, then the state officer or employee shall be reimbursed for all lodging expenses incurred, as long as the request for overnight lodging has been pre-authorized. All travel reimbursement payments***~~[This payment]~~ shall be made from an appropriation for this purpose to a budget unit of a branch of government.

SB 94, AN ACT relating to the deaf and hard of hearing.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 163.510 is amended to read as follows:

(1) The commission shall advise the Governor and the General Assembly concerning policy and programs to enhance the quality and coordination of services for the deaf and hard of hearing.

(2) The commission shall cooperate with and assist local, state and federal governments and public and private agencies in the development of programs for the deaf and hard of hearing.

(3) The commission shall review legislative programs relating to services to deaf and hard of hearing persons and shall conduct studies of conditions affecting the health and welfare of the deaf and hard of hearing.

(4) The commission shall oversee the provision of interpreter services to the deaf and hard of hearing, and may provide services if necessary.

(5) The commission shall establish a centralized interpreter referral services program for other state agencies to assist them in making their programs and services accessible to persons who are deaf or hard of hearing and to their employees who are deaf or hard of hearing.

(6) The commission shall promulgate administrative regulations in accordance with provisions of KRS Chapter 13A as necessary to implement the centralized interpreter referral services program.

Section 2. KRS 163.500 is amended to read as follows:

Deaf and hard of hearing persons have a range of hearing losses, and include people who are deaf, deaf-blind, hard of hearing, late deafened, oral deaf, and recently deafened, regardless of the severity of loss, age of onset, communication method, use of technology, or sociocultural factors.

(1) As used in KRS 163.500 to 163.527, unless the context requires otherwise, and in any administrative regulations

promulgated under KRS 163.500 to 163.527:

(a) "Deaf" means a person who uses American Sign Language (ASL) as his or her primary communication mode or who learns and communicates primarily by visual methods;

(b) "Hard of hearing" means a person who has some degree of hearing loss, varying from mild to profound, does not rely on American Sign Language (ASL) as his or her primary language, utilizes residual hearing and assistive technology, and who is independent in daily living activities; and

(c) "Late deafened" means a person who has a severe to profound hearing loss with age of onset having occurred after the development of speech and language, derives little or no benefit from assistive listening technology, and requires visual representation of a language, such as English, including visual display technology, to communicate.

(2) In any administrative regulations promulgated under KRS 163.500 to 163.527:

(a) "Deaf-blind" means a person who has an auditory and visual loss so severe that the combined sensory disability causes difficulty in attaining independence in daily living activities. The visual and hearing loss may range from no usable hearing or vision in either ear or eye to a severe loss in either or both ears or eyes;

(b) "Oral deaf" means a person who uses speech, speechreading, and residual hearing as his or her primary means of communication; and

(c) "Recently deafened" means a person who has acquired a hearing loss within the past five (5) years. The degree of hearing loss may be minimal or profound

~~[The "deaf" and "hard of hearing" are persons who have hearing disorders. They are people who cannot hear and understand speech clearly through the ear alone, with or without hearing aids]~~.

SB 68, AN ACT relating to the pledge of allegiance to the flag of the Commonwealth of Kentucky.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

SECTION 1. A NEW SECTION OF KRS CHAPTER 2 IS CREATED TO READ AS FOLLOWS:

The following shall be the official pledge of allegiance to the flag of the Commonwealth of Kentucky: "I pledge allegiance to the Kentucky flag, and to the Sovereign State for which it stands, one Commonwealth, blessed with diversity, natural wealth, beauty, and grace from on High."

SB 114, AN ACT relating to vocational rehabilitation.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.240 is amended to read as follows:

(1) The Statewide Independent Living Council is hereby created and attached to the Department of Vocational Rehabilitation for administrative purposes to accomplish the purposes enumerated in 29 U.S.C. sec. 796d (Title VII, Part A, Section 705 of the Rehabilitation Act Amendments of *1998*~~[1992]~~). Members of the council shall be appointed by the Governor from recommendations submitted by the Department of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities representing geographical and disability diversity as well as representatives from identified service providers and other entities. The composition, qualifications, and terms of service of the council shall conform to the federal law.

(2) *(a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Independent Living Council shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.*

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide Independent Living Council may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide Independent Living Council. The per diem and expenses shall be paid out of the federal funds appropriated under Title VII*, Chapter 1,* Part A, and Title *VII, Chapter 1,*~~[I]~~ Part C of the Rehabilitation Act Amendments of *1998*~~[1992]~~, Pub. L. *105-220*~~[102-569]~~.

Section 2. KRS 151B.245 is amended to read as follows:

(1) The Statewide~~[Advisory]~~ Council for Vocational Rehabilitation is hereby created within the Department of Vocational Rehabilitation to accomplish the purposes and functions enumerated in 29 U.S.C. sec. 725 (Title I, *Part A*~~[Subtitle B]~~, Section *105*~~[126]~~ of the Rehabilitation Act Amendments of *1998*~~[1992]~~). Members of the council shall be appointed by

the Governor from recommendations submitted by the Department of Vocational Rehabilitation consistent with the federal mandate to include a majority of individuals with disabilities not employed by the department as well as representatives of specified organizations, service providers, and advocacy groups. The compensation, qualifications, and terms of service of the council shall conform to the federal law.

(2) ***(a) Except as provided in paragraph (b) of this subsection, any vacancy occurring in the membership of the Statewide Council for Vocational Rehabilitation shall be filled in the same manner as the original appointment. The vacancy shall not affect the power of the remaining members of the council.***

(b) The Governor may delegate the authority to fill a vacancy to the remaining voting members of the council.

(3) Each member of the Statewide~~[Advisory]~~ Council on Vocational Rehabilitation may receive a per diem of one hundred dollars ($100), not to exceed six hundred dollars ($600) annually, for each regular or special meeting attended if the member is not employed or must forfeit wages from other employment. Each member may have travel expenses approved at the established state rate and expenses reimbursed at the established state agency rate for services such as personal assistance, child care, and drivers for attendance at council meetings, and in the performance of duties authorized by the Statewide~~[Advisory]~~ Council on Vocational Rehabilitation. The per diem and expenses shall be paid out of the federal funds appropriated under Title I part A of the Rehabilitation Act Amendments of ***1998***~~[1992]~~, Pub. L. ***105-220***~~[102-569]~~.

SB 166, AN ACT relating to the duties of the secretary of the Cabinet for Workforce Development.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 151B.020 is amended to read as follows:

(1) The Cabinet for Workforce Development is hereby created, which shall constitute a cabinet of the state government within the meaning of KRS Chapter 12. The cabinet shall consist of a secretary and those administrative bodies and employees as provided by law.

(2) The cabinet, subject to the provisions of KRS Chapter 12, shall be composed of the major organizational units listed below, and other departments, divisions, and sections as are from time to time deemed necessary for the proper and efficient operation of the cabinet:

(a) The Department for Adult Education and Literacy, which is created by KRS 151B.023;
(b) The Department for Technical Education, which is created by KRS 151B.025;
(c) The Department of Vocational Rehabilitation, which is created by KRS 151B.185;
(d) The Department for the Blind, established by KRS 163.470;
(e) The Department for Employment Services, which is created by KRS 151B.280;
(f) The State Board for Adult and Technical Education, which is created by KRS 151B.095;
(g) The Governor's Council on Vocational Education, established by KRS 163.086;
(h) The State Board for Proprietary Education, established by KRS 165A.340;
(i) The Foundation for Adult Education, established by KRS 151B.130;
(j) The Kentucky Job Training Coordinating Council, established by KRS 151B.220;
(k) The Unemployment Insurance Commission established by KRS 341.110;
(l) The Office of Training and Reemployment created in KRS 151B.260; and
(m) The Office of School-to-Work, established by KRS 151B.250.

(3) The executive officer of the cabinet shall be the secretary of the Cabinet for Workforce Development. The secretary shall be appointed by the Governor pursuant to KRS 12.040 and shall serve at the pleasure of the Governor. The secretary shall have general supervision and direction over all activities and functions of the cabinet and its employees and shall be responsible for carrying out the programs and policies of the cabinet. The secretary shall be the chief executive officer of the cabinet and shall have authority to enter into contracts, subject to the approval of the secretary of the Finance and Administration Cabinet, when the contracts are deemed necessary to implement and carry out the programs of the cabinet. ***The secretary shall have the authority to require coordination and nonduplication of services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. sec. 9201 et seq. The secretary shall have the authority to mandate fiscal responsibility dispute resolution procedures among state organizational units for services provided under the Federal Workforce Investment Act of 1998, 20 U.S.C. sec. 9201 et seq.*** The Office of the Secretary of the Cabinet for Workforce Development shall consist of the Offices of General Counsel, Communication Services, Development and Industry Relations, Workforce Analysis and Research, the Office for Policy and Budget, the Office of Personnel Services, and the Office for Administrative Services. The Office for Administrative Services shall contain the Divisions of Fiscal Services, Computer Services, and Facilities Management. Each division shall be headed by a director appointed by the secretary of the Cabinet for Workforce Development pursuant to KRS 12.050.

(4) The secretary of the Cabinet for Workforce Development and his designated representatives, in the discharge of the duties

of the secretary, may administer oaths and affirmations, take depositions, certify official acts, and issue subpoenas to compel the attendance of witnesses and production of books, papers, correspondence, memoranda, and other records considered necessary and relevant as evidence at hearings held in connection with the administration of the cabinet.

(5) The secretary of the Cabinet for Workforce Development may delegate any duties of his office to employees of the cabinet as he deems necessary and appropriate, unless otherwise prohibited by statute.

(6) The secretary of the Cabinet for Workforce Development shall promulgate, administer, and enforce administrative regulations that are necessary to implement programs mandated by federal law, or to qualify for the receipt of federal funds, and that are necessary to cooperate with other state and federal agencies for the proper administration of the cabinet and its programs.

SB 202, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. The General Assembly hereby confirms Executive Order 99-1722, dated December 28, 1999, which designates the Office of Training and Reemployment, Workforce Development Cabinet, established under KRS 151B.260, as the administrator for Title I of the Workforce Investment Act and the State Workforce Investment Board. The General Assembly also confirm, that part of Executive Order 99-1722 providing that under Title I, the eight percent (8%) Job Training and Partnership Act positions, funds, and functions administered by the Office of Policy and Budget, Workforce Development Cabinet, shall be moved to the Office of Training and Reemployment as part of the office's new responsibility.

SB 206, AN ACT relating to administrative regulations.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 13A.015 is amended to read as follows:

(1) Except as provided by subsection *(7)*~~[(6)]~~ of this section, prior to the promulgation of an administrative regulation, an administrative body shall, for each administrative regulation it intends to promulgate:

(a) File with the regulations compiler the original and five (5) copies, and, if available, an electronic version of a notice of its intent to promulgate an administrative regulation for publication in the administrative register; and

(b) Hold a public hearing and receive oral or written comments on the proposed administrative regulation as provided by this section.

(2) Prior to filing a notice of intent to promulgate a new administrative regulation, an administrative body shall obtain from the regulations compiler a number for the new administrative regulation.

(3) The notice of intent shall include:

(a) A statement that the administrative body intends to promulgate an administrative regulation;

(b) The number and the specific subject matter of the proposed administrative regulation;

(c) A statement that the administrative body will hold a public hearing if a public hearing is requested at least ten (10) calendar days prior to the date of the public hearing, in writing, by five (5) persons, or by an administrative body, or by an association having at least five (5) members, provided that a minimum of five (5) persons, or one (1) person representing an administrative body or association, agree to be present at the public hearing:

1. No sooner than the twenty-first day nor later than the last workday of the month in which the notice of intent to promulgate is published in the Administrative Register;

2. At which it will accept oral and written comments from any interested person;

(d) The name, address, telephone number, and facsimile number to whom the written request for a public hearing and written comments shall be sent;

(e) The date, time, and place of the public hearing;

(f) The following information relating to the proposed administrative regulation:

1. The statutory authority for the administrative regulation;

2. A summary of the administrative regulation, including how an existing administrative regulation will be amended by the proposed administrative regulation, if applicable;

3. A statement setting forth the necessity for promulgating the administrative regulation, and a summary of the functions intended to be implemented by the administrative regulation, and, if applicable, the statement required by KRS 13A.245(2)(b);

4. A statement of the benefits expected from the administrative regulation; and

5. How the administrative regulation will be implemented.

(4) (a) An administrative body shall provide a form to be completed and filed by a person who wishes to be notified of the intent of the administrative body to promulgate an administrative regulation.

(b) A copy of the notice of intent shall be mailed:

1. To every person who has filed this form;

2. On the date the notice is published in the Administrative Register.

(5) ***If a notice of intent is filed to promulgate an administrative regulation in response to a statute enacted or amended by the General Assembly during the two (2) year time period immediately preceding the date the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the appropriate legislator as determined by this subsection.***

(a) If the primary sponsor of the legislation, who shall be the first person listed in the Legislative Record following the bill number, is a current member of the General Assembly at the time the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the primary sponsor.

(b) If the primary sponsor of the legislation is not a current member of the General Assembly at the time the notice of intent is filed, the administrative body shall mail a copy of the notice of intent to the chair of the appropriate standing or interim joint committee of the General Assembly.

(6) (a) An administrative body shall file the original and five (5) copies of the notice of its intent to promulgate an administrative regulation with the regulations compiler.

(b) The date a notice of intent to promulgate an administrative regulation is published in the Administrative Register shall be governed by the provisions of KRS 13A.050(3) and 13A.150.

(c) A notice of intent shall be typewritten on white paper, size eight and one-half (8-1/2) by eleven (11) inches, and single-spaced. The first page shall have a two (2) inch top margin, and one (1) inch side and bottom margins. Subsequent pages shall have one (1) inch top, bottom, and side margins. The notice of intent shall be typed in a twelve (12) point font approved by the regulations compiler.

(7)~~[(6)]~~(a) A notice of intent shall not be filed for an emergency administrative regulation that will not be replaced by an ordinary administrative regulation.

(b) If an emergency administrative regulation will be replaced by an ordinary administrative regulation, the notice of intent for the ordinary administrative regulation shall be filed at the same time as the emergency administrative regulation that will be replaced.

(8)~~[(7)]~~If a notice of intent to promulgate an administrative regulation has been filed, a subsequent notice of intent on the same administrative regulation shall not be filed unless the first notice of intent has been withdrawn.

Section 2. KRS 13A.010 is amended to read as follows:

As used in this chapter, unless the context otherwise requires:

(1) "Administrative body" means each state board, bureau, cabinet, commission, department, authority, officer, or other entity, except the General Assembly and the Court of Justice, authorized by law to promulgate administrative regulations;

(2) "Administrative regulation" means each statement of general applicability promulgated by an administrative body that implements, interprets, or prescribes law or policy, or describes the organization, procedure, or practice requirements of any administrative body. The term includes an existing administrative regulation, a new administrative regulation, an emergency administrative regulation, an administrative regulation in contemplation of a statute, the amendment or repeal of an existing administrative regulation, but does not include:

(a) Statements concerning only the internal management of an administrative body and not affecting private rights or procedures available to the public; or

(b) Declaratory rulings; or

(c) Intradepartmental memoranda not in conflict with KRS 13A.130; or

(d) Statements relating to acquisition of property for highway purposes and statements relating to the construction or maintenance of highways; or

(e) Rules, regulations, and policies of the governing boards of institutions that make up the postsecondary education system defined in KRS 164.001 pertaining to students attending or applicants to the institutions, to faculty and staff of the respective institutions, or to the control and maintenance of land and buildings occupied by the respective institutions;

(3) "Adopted" means that an administrative regulation has become effective in accordance with the provisions of this chapter;

(4) "Authorizing signature" means the signature of the head of the administrative body authorized by statute to promulgate administrative regulations;

(5) "Commission" means the Legislative Research Commission;

(6) "Economic impact" means a financial impact on:

(a) Commercial enterprises;

(b) Retail businesses;

(c) Service businesses;

(d) Industry;

(e) Consumers of a product or service; or

(f) Taxpayers;

(7) "Effective" means that an administrative regulation has completed the legislative subcommittee review established by KRS 13A.290 and 13A.330;

(8) "Federal mandate" means any federal constitutional, legislative or executive law or order which requires or permits any administrative body to engage in regulatory activities which impose compliance standards, reporting requirements, recordkeeping, or similar responsibilities upon entities in the Commonwealth;

(9) "Federal mandate comparison" means a written statement containing the information required by KRS 13A.245;

(10) "Filed" means that an administrative regulation, or other document required to be filed by this chapter, has been submitted to the Commission in accordance with this chapter;

(11) "Promulgate" means that an administrative body has approved an administrative regulation for filing with the Commission in accordance with the provisions of KRS Chapter 13A;

(12) "Proposed administrative regulation~~[,]~~"~~[except as provided by KRS 13A.015(6),]~~ means an administrative regulation that an administrative body proposes to promulgate;

(13) "Regulatory impact analysis" means a written statement containing the provisions required by KRS 13A.240;

(14) "Statement of consideration" means that an administrative body must either accept suggestions or recommendations regarding an administrative regulation or issue a concise statement setting forth the reasons for not accepting suggestions or recommendations regarding an administrative regulation;

(15) "Subcommittee" includes the Administrative Regulation Review Subcommittee, any other subcommittee of the Legislative Research Commission, a standing committee of the General Assembly, or a House and Senate standing committee meeting jointly; and

(16) "Tiering" means the tailoring of regulatory requirements to fit the particular circumstances surrounding regulated entities.

SB 233, AN ACT relating to reorganization.

Be it enacted by the General Assembly of the Commonwealth of Kentucky:

Section 1. KRS 156.760 is repealed, reenacted as a new section of KRS Chapter 194B, and amended to read as follows:

(1) As used in KRS 156.760 to 156.766, "commission" means the Kentucky Commission on Community Volunteerism and Service.

(2) The Kentucky Commission on Community Volunteerism and Service is created and shall be attached to the ***Office of the Secretary of the Cabinet for Families and Children***~~[Council on Postsecondary Education]~~ for ***oversight, technical, and*** administrative ***support*** purposes~~[only. Initial temporary staffing for the commission shall be provided jointly by existing staff of the Council on Postsecondary Education and the Department of Education]~~. A director and other appropriate staff shall be hired by the commission when federal funds become available.

Section 2. KRS 156.762 is repealed and reenacted as a new section of KRS Chapter 194B to read as follows:

The commission shall initially consist of twenty-five (25) voting members who shall be appointed by the Governor. Membership on the commission shall be for a three (3) year term, with the exception that initially one third (1/3) of the members shall serve for a term of one (1) year, one-third (1/3) of the members shall serve for a term of two (2) years, and one-third (1/3) of the members shall serve for a term of three (3) years. After the first six (6) months of operations, the Governor reserves the option to request the commission to submit recommendations for any additional members deemed necessary to balance the commission's perspective, provided that the commission's membership does not exceed twenty-five (25). The commission shall annually select from its membership a chair to serve for a term of one (1) year.

Section 3. KRS 156.764 is repealed and reenacted as a new section of KRS Chapter 194B to read as follows:

The purpose of the commission is to engage in statewide strategic planning, establish relevant policies, provide administrative oversight, and promote programs and strengthen the service ethic among the Commonwealth's citizens by facilitating the development of strategic programs that enable citizens to address serious societal problems including, but not limited to, education reform through service to local communities.

Section 4. KRS 156.766 is repealed and reenacted as a new section of KRS Chapter 194B to read as follows:

The commission shall:

(1) Develop a strategic plan for service in Kentucky which covers a three (3) year period, and supporting efforts to achieve the

goals of this plan. The plan shall be updated annually;

(2) Oversee and submit Kentucky's annual applications to the Corporation for National Service, the federal funding authority, and other funding sources for the continuation and any expansion of the current KentuckyServe initiative;

(3) Conduct a competitive application process to determine the organizations that will be awarded subgrants to operate national service programs;

(4) Fulfill any other responsibilities required by the Corporation for National Service and other funding sources; and

(5) Promulgate administrative regulations pursuant to KRS Chapter 13A to establish operational guidelines for the commission.

Section 5. KRS 12.020 is amended to read as follows:

Departments, program cabinets and their departments, and the respective major administrative bodies that they include are enumerated in this section. It is not intended that this enumeration of administrative bodies be all-inclusive. Every authority, board, bureau, interstate compact, commission, committee, conference, council, office, or any other form of organization shall be included in or attached to the department or program cabinet in which they are included or to which they are attached by statute or statutorily-authorized executive order; except in the case of the Personnel Board and where the attached department or administrative body is headed by a constitutionally elected officer, the attachment shall be solely for the purpose of dissemination of information and coordination of activities and shall not include any authority over the functions, personnel, funds, equipment, facilities, or records of the department or administrative body.

I. Cabinet for General Government - Departments headed by elected officers:
    1. The Governor.
    2. Lieutenant Governor.
    3. Department of State.
        (a) Secretary of State.
        (b) Board of Elections.
        (c) Registry of Election Finance.
    4. Department of Law.
        (a) Attorney General.
    5. Department of the Treasury.
        (a) Treasurer.
    6. Department of Agriculture.
        (a) Commissioner of Agriculture.
        (b) Kentucky Council on Agriculture.
    7. Superintendent of Public Instruction.
    8. Auditor of Public Accounts.
    9. Railroad Commission.

II. Program cabinets headed by appointed officers:
    1. Justice Cabinet:
        (a) Department of State Police.
        (b) Department of Criminal Justice Training.
        (c) Department of Corrections.
        (d) Department of Juvenile Justice.
        (e) Office of the Secretary.
        (f) Offices of the Deputy Secretaries.
        (g) Office of General Counsel.
        (h) Division of Kentucky State Medical Examiners Office.
        (i) Parole Board.
        (j) Kentucky State Corrections Commission.
        (k) Commission on Correction and Community Service.
    2. Education, Arts, and Humanities Cabinet:
        (a) Department of Education.
            (1) Kentucky Board of Education.

(2) Education Professional Standards Board.
(b) Department for Libraries and Archives.
(c) Kentucky Arts Council.
(d) Kentucky Educational Television.
(e) Kentucky Historical Society.
(f) Kentucky Teachers' Retirement System Board of Trustees.
(g) Kentucky Center for the Arts.
(h) Kentucky Craft Marketing Program.
(i) Kentucky Commission on the Deaf and Hard of Hearing.
(j) Governor's Scholars Program.
(k) Governor's School for the Arts.
(l) Operations and Development Office.
(m) Kentucky Heritage Council.
(n) Kentucky African-American Heritage Commission.
(o) Board of Directors for the Center for School Safety.

3. Natural Resources and Environmental Protection Cabinet:
(a) Environmental Quality Commission.
(b) Kentucky Nature Preserves Commission.
(c) Department for Environmental Protection.
(d) Department for Natural Resources.
(e) Department for Surface Mining Reclamation and Enforcement.
(f) Office of Legal Services.
(g) Office of Information Services.

4. Transportation Cabinet:
(a) Department of Highways.
(b) Department of Vehicle Regulation.
(c) Department of Administrative Services.
(d) Department of Fiscal Management.
(e) Department of Rural and Municipal Aid.
(f) Office of General Counsel.
(g) Office of Public Affairs.
(h) Office of Personnel Management.
(i) Office of Minority Affairs.
(j) Office of Environmental Affairs.
(k) Office of Policy and Budget.

5. Cabinet for Economic Development:
(a) Department of Administration and Support.
(b) Department of Job Development.
(c) Department of Financial Incentives.
(d) Department of Community Development.
(e) Tobacco Research Board.
(f) Kentucky Economic Development Finance Authority.

6. Public Protection and Regulation Cabinet:
(a) Public Service Commission.
(b) Department of Insurance.
(c) Department of Housing, Buildings and Construction.
(d) Department of Financial Institutions.
(e) Department of Mines and Minerals.

(f) Department of Public Advocacy.
(g) Department of Alcoholic Beverage Control.
(h) Kentucky Racing Commission.
(i) Board of Claims.
(j) Crime Victims Compensation Board.
(k) Kentucky Board of Tax Appeals.
(l) Backside Improvement Commission.
(m) Office of Petroleum Storage Tank Environmental Assurance Fund.

7. Cabinet for Families and Children:
(a) Department for Social Insurance.
(b) Department for Social Services.
(c) Public Assistance Appeals Board.
(d) Office of the Secretary.
1. Kentucky Commission on Community Volunteerism and Service.
(e) Office of the General Counsel.
(f) Office of Program Support.
(g) Office of Family Resource and Youth Services Centers.
(h) Office of Technology Services.
(i) Office of the Ombudsman.
(j) Office of Aging Services.

8. Cabinet for Health Services.
(a) Department for Public Health.
(b) Department for Medicaid Services.
(c) Department for Mental Health and Mental Retardation Services.
(d) Kentucky Commission on Children with Special Health Care Needs.
(e) Office of Certificate of Need.
(f) Office of the Secretary.
(g) Office of the General Counsel.
(h) Office of Program Support.
(i) Office of the Inspector General.

9. Finance and Administration Cabinet:
(a) Office of Legal and Legislative Services.
(b) Office of Management and Budget.
(c) Office of Financial Management and Economic Analysis.
(d) Office of the Controller.
(e) Department for Administration.
(f) Department of Facilities Management.
(g) Department of Information Systems.
(h) State Property and Buildings Commission.
(i) Kentucky Pollution Abatement Authority.
(j) Kentucky Savings Bond Authority.
(k) Deferred Compensation Systems.
(l) Office of Equal Employment Opportunity Contract Compliance.
(m) Office of Capital Plaza Operations.
(n) County Officials Compensation Board.
(o) Kentucky Employees Retirement Systems.
(p) Commonwealth Credit Union.
(q) State Investment Commission.

(r) Kentucky Housing Corporation.
(s) Governmental Services Center.
(t) Kentucky Local Correctional Facilities Construction Authority.
(u) Kentucky Turnpike Authority.
(v) Historic Properties Advisory Commission.
(w) Kentucky Kare Health Insurance Authority.

10. Labor Cabinet:
(a) Department of Workplace Standards.
(b) Department of Workers' Claims.
(c) Kentucky Labor-Management Advisory Council.
(d) Occupational Safety and Health Standards Board.
(e) Prevailing Wage Review Board.
(f) Workers' Compensation Board.
(g) Kentucky Employees Insurance Association.
(h) Apprenticeship and Training Council.
(i) State Labor Relations Board.
(j) Kentucky Occupational Safety and Health Review Commission.
(k) Office of Administrative Services.
(l) Office of Labor-Management Relations and Mediation.
(m) Office of General Counsel.
(n) Workers' Compensation Funding Commission.
(o) Employers Mutual Insurance Authority.

11. Revenue Cabinet:
(a) Department of Property Valuation.
(b) Department of Tax Administration.
(c) Office of Financial and Administrative Services.
(d) Department of Law.
(e) Department of Information Technology.
(f) Office of Taxpayer Ombudsman.

12. Tourism Development Cabinet:
(a) Department of Travel.
(b) Department of Parks.
(c) Department of Fish and Wildlife Resources.
(d) Kentucky Horse Park Commission.
(e) State Fair Board.
(f) Office of Administrative Services.
(g) Office of General Counsel.

13. Cabinet for Workforce Development:
(a) Department for Adult Education and Literacy.
(b) Department for Technical Education.
(c) Department of Vocational Rehabilitation.
(d) Department for the Blind.
(e) Department for Employment Services.
(f) State Board for Adult and Technical Education.
(g) Governor's Council on Vocational Education.
(h) The State Board for Proprietary Education.
(i) The Foundation for Adult Education.
(j) The Kentucky Job Training Coordinating Council.

        (k) Office of General Counsel.
        (l) Office of Communication Services.
        (m) Office of Development and Industry Relations.
        (n) Office of Workforce Analysis and Research.
        (o) Office for Administrative Services.
        (p) Office for Policy and Budget.
        (q) Office of Personnel Services.
        (r) Unemployment Insurance Commission.
    14. Personnel Cabinet:
        (a) Office of Administrative and Legal Services.
        (b) Department for Personnel Administration.
        (c) Department for Employee Relations.
        (d) Kentucky Public Employees Deferred Compensation Authority.
        (e) Kentucky Kare.
        (f) Division of Performance Management.
        (g) Division of Employee Records.
        (h) Division of Staffing Services.
        (i) Division of Classification and Compensation.
        (j) Division of Employee Benefits.
        (k) Division of Communications and Recognition.

III. Other departments headed by appointed officers:
    1. Department of Military Affairs.
    2. Council on Postsecondary Education.
        ~~[(a) Kentucky Commission on Community Volunteerism and Service.]~~
    3. Department for Local Government.
    4. Kentucky Commission on Human Rights.
    5. Kentucky Commission on Women.
    6. Department of Veterans' Affairs.
    7. Kentucky Commission on Military Affairs.
    8. Office of the Chief Information Officer.

Section 6. KRS 18A.115 is amended to read as follows:

(1) The classified service to which KRS 18A.005 to 18A.200 shall apply shall comprise all positions in the state service now existing or hereafter established, except the following:

(a) The General Assembly and employees of the General Assembly, including the employees of the Legislative Research Commission;

(b) Officers elected by popular vote and persons appointed to fill vacancies in elective offices;

(c) Members of boards and commissions;

(d) Officers and employees on the staff of the Governor, the Lieutenant Governor, the Office of the secretary of the Governor's Cabinet, and the Office of Program Administration;

(e) Cabinet secretaries, commissioners, office heads, and the administrative heads of all boards and commissions, including the executive director of Kentucky Educational Television;

(f) Employees of Kentucky Educational Television who have been determined to be exempt from classified service by the Kentucky Authority for Educational Television, which shall have sole authority over such exempt employees for employment, dismissal, and setting of compensation, up to the maximum established for the executive director and his principal assistants;

(g) One (1) principal assistant or deputy for each person exempted under subsection (1)(e) of this section;

(h) One (1) additional principal assistant or deputy as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the commissioner approves such an addition on petition of the relevant cabinet secretary or department head and such other principal assistants, deputies, or other major assistants as may be necessary for making and carrying out policy for each person exempted under subsection (1)(e) of this section in those instances in which the nature of the functions, size, or complexity of the unit involved are such that the board may approve such an addition or additions on petition of the department head approved by the commissioner;

(i) Division directors subject to the provisions of KRS 18A.170. Division directors in the classified service as of January 1, 1980, shall remain in the classified service;

(j) Physicians employed as such;

(k) One (1) private secretary for each person exempted under subsection (1)(e), (g), and (h) of this section;

(l) The judicial department, referees, receivers, jurors, and notaries public;

(m) Officers and members of the staffs of state universities and colleges and student employees of such institutions; officers and employees of the Teachers' Retirement System; and officers, teachers, and employees of local boards of education;

(n) Patients or inmates employed in state institutions;

(o) Persons employed in a professional or scientific capacity to make or conduct a temporary or special inquiry, investigation, or examination on behalf of the General Assembly, or a committee thereof, or by authority of the Governor, and persons employed by state agencies for a specified, limited period to provide professional, technical, scientific, or artistic services under the provisions of KRS 45A.690 to 45A.725;

(p) Interim employees;

(q) Officers and members of the state militia;

(r) State Police troopers and sworn officers in the Department of State Police, Justice Cabinet;

(s) University or college engineering students or other students employed part-time or part-year by the state through special personnel recruitment programs; provided that while so employed such aides shall be under contract to work full-time for the state after graduation for a period of time approved by the commissioner or shall be participants in a cooperative education program approved by the commissioner;

(t) Superintendents of state mental institutions, including heads of mental retardation centers, and penal and correctional institutions as referred to in KRS 196.180(2);

(u) Staff members of the Kentucky Historical Society, if they are hired in accordance with KRS 171.311;

(v) County and Commonwealth's attorneys and their respective appointees;

(w) Chief district engineers and the state highway engineer;

(x) Veterinarians employed as such by the Kentucky State Racing Commission or the Kentucky Harness Racing Commission;

(y) Employees of the Kentucky Peace Corps;

(z) Employees of the Council on Postsecondary Education;[~~and~~]

(aa) Chief information officer of the Commonwealth***; and***

(ab) Employees of the Kentucky Commission on Community Volunteerism and Service.

(2) Nothing in KRS 18A.005 to 18A.200 is intended, or shall be construed, to alter or amend the provisions of KRS 150.022 and 150.061.

(3) Nothing in KRS 18A.005 to 18A.200 is intended or shall be construed to affect any nonmanagement, nonpolicy-making position which must be included in the classified service as a prerequisite to the grant of federal funds to a state agency.

(4) Career employees within the classified service promoted to positions exempted from classified service shall, upon termination of their employment in the exempted service, revert to a position in that class in the agency from which they were terminated if a vacancy in that class exists. If no such vacancy exists, they shall be considered for employment in any vacant position for which they were qualified pursuant to KRS 18A.130 and 18A.135.

(5) Nothing in KRS 18A.005 to 18A.200 shall be construed as precluding appointing officers from filling unclassified positions in the manner in which positions in the classified service are filled except as otherwise provided in KRS 18A.005 to 18A.200.

(6) The positions of employees who are transferred, effective July 1, 1998, from the Cabinet for Workforce Development to the Kentucky Community and Technical College System shall be abolished and the employees' names removed from the roster of state employees. Employees that are transferred, effective July 1, 1998, to the Kentucky Community and Technical College System under KRS Chapter 164 shall have the same benefits and rights as they had under KRS Chapter 18A and have under KRS 164.5805; however, they shall have no guaranteed reemployment rights in the KRS Chapter 151B or KRS Chapter 18A personnel systems. An employee who seeks reemployment in a state position under KRS Chapter 151B or KRS Chapter 18A shall have years of service in the Kentucky Community and Technical College System counted towards years of experience for calculating benefits and compensation.

Section 7. KRS 194B.030 is amended to read as follows:

The cabinet consists of the following major organizational units, which are hereby created:

(1) Office of the Secretary. The Office of the Secretary for Families and Children may, in addition to the secretary for families and children, include other personnel as are necessary to direct and carry out the missions and goals of the cabinet, including a deputy secretary if deemed necessary by the secretary of the cabinet and upon approval of the Governor. ***The Kentucky Commission on Community Volunteerism and Service shall be attached to the Office of the Secretary for oversight, technical, and administrative support purposes.***

(2) Office of the General Counsel. The Office of the General Counsel shall provide legal advice and assistance to all units of the cabinet in any legal action in which it may be involved. The Office of the General Counsel shall employ all attorneys of the cabinet who serve the cabinet in the capacity of attorney and shall administer all personal service contracts of the cabinet for legal services. The Office of the General Counsel shall be headed by a general counsel who shall be appointed by the secretary with the approval of the Governor under KRS 12.050 and 12.210. The general counsel shall be the chief legal advisor to the secretary and shall be responsible to the secretary. The Attorney General, on the request of the secretary, may designate the general counsel as an assistant attorney general under the provisions of KRS 15.105.

(3) Office of Program Support. The Office of Program Support shall be responsible for providing administrative and management support, planning, and appraisal of need services within the Cabinet for Families and Children. All personnel, fiscal, budgetary, contract monitoring, quality assurance, quality control, outcome assessment, and facility management functions of the cabinet shall be vested in the Office of Program Support. The Office of Program Support shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director shall exercise authority over the Office of Program Support under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(4) Department for Social Services. The Department for Social Services shall develop and operate all social service programs of the cabinet. The Department for Social Services shall be headed by a commissioner for social services who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social services shall be a person who by education, professional qualification, training, and experience in the administration and management of social service programs is qualified to perform the duties of this office. The commissioner for social services shall exercise authority over the Department for Social Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(5) Department for Social Insurance. The Department for Social Insurance shall develop and operate programs of the cabinet that provide income maintenance or income supplementation services and social insurance benefit programs not assigned to another department. The Department for Social Insurance shall also be responsible for all eligibility determination and certification functions associated with these programs. The Department for Social Insurance shall be headed by a commissioner for social insurance who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The commissioner for social insurance shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The commissioner is under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(6) Office of Family Resource and Youth Services Centers. The Office of Family Resources and Youth Services Centers shall be responsible for the administration, management, and operations of the Family Resources and Youth Services Centers Program. The Office of Family Resources and Youth Services Centers shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(7) Office of the Ombudsman. The Office of the Ombudsman shall provide professional support in the evaluation of programs, including, but not limited to, a review and resolution of citizen complaints about programs or services of the cabinet when those complaints are unable to be resolved through normal administrative remedies; contract monitoring; and professional development and training. The Office of the Ombudsman shall be headed by an ombudsman who shall be appointed by the secretary with the approval of the Governor under KRS 12.050.

(8) Office of Technology Services. The Office of Technology Services shall develop and maintain technology and information management systems in support of all units of the cabinet. The Office of Technology Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor under KRS 12.050. The executive director for technology services shall be a person who by experience and training in administration and management is qualified to perform the duties of this office. The executive director for technology services shall exercise authority of the Office of Technology Services under the direction of the secretary and shall only fulfill those responsibilities as delegated by the secretary.

(9) Office of Aging Services. The Office of Aging Services shall serve as the state unit on aging as required by the Older Americans Act of 1965, as amended by 42 U.S.C. secs. 3001 et seq., including having responsibility for the development of the state plan on aging, advocacy, planning, coordination, information sharing, brokering, reporting and evaluation of contract and service provider agreement implementation. The Office of Aging Services shall be headed by an executive director who shall be appointed by the secretary with the approval of the Governor in accordance with KRS 12.050. The

Office of Aging Services shall also administer grants, programs, and initiatives designed to assist older Kentuckians, administer the long-term care ombudsman program for Kentucky, and provide and coordinate services to persons with Alzheimer's disease and related disorders and their caregivers.

Section 8. The General Assembly confirms Executive Order 2000-8, issued by the Governor on January 4, 2000, to the extent that it is not otherwise confirmed by this Act.

Posting of Bills and Resolutions for Consideration (Continued)

The Clerk announced that the following Bills and Resolution have been posted for Committee consideration:

Tourism, Development, and Energy: **SB 172, HB 821**

State Government: **SCR 61, HB 820, HB 1011**

The Clerk announced that the following Bills have been withdrawn from Committee consideration:

State Government: **HB 513, HB 977**

Motions, Petitions, and Communications (Continued)

Representative Ratliff moved the adoption of the following **Legislative Citation No. 96**.

The House of Representatives of the Commonwealth of Kentucky hereby adjourns this legislative day in loving memory of Bonnie Mae Phillips and offers its sincerest condolences to the Phillips family and to all those who share in the loss of this distinguished and admired citizen of Kentucky. The beloved wife of Tom Phillips, this outstanding citizen was an admired servant of the community whose unsurpassed dedication to environmental issues has greatly improved the quality of life for both the citizens of this area and those throughout the state. Appointed in 1982 by then Pike County Judge/Executive Paul Patton to serve on an advisory committee to assist in the creation of a mandatory garbage collection program, Mrs. Phillips went on to chair the Keep Pike Beautiful program and was recognized for her efforts in 1987 by national leaders of the Keep America Beautiful program. An instrumental force behind the 1996 creation of the Friends of Fishtrap Organization, she labored with great diligence to clean-up and develop this man-made body of water and was honored nearly a year later for her leadership with a Commanders Award from the U.S. Army Corps of Engineers. In addition to her many and impressive civic accomplishments, she was a renowned race car driver who competed and won numerous drag races in Eastern Kentucky and surrounding states and jointly owned Bonnie's Speed Shop with her husband. The esteemed members of this honorable body do solemnly join with Representative Chris Ratliff in honoring the memory of Bonnie Mae Phillips for the valuable contributions her presence lent to her family, her community and to this Commonwealth. Done in Frankfort, this eighth day of March, in the year two thousand.

Legislative Citation No. 96 was adopted without objection.

Representative Stewart moved the adoption of the following **Legislative Citation No. 97**.

The House of Representatives of the Commonwealth of Kentucky does hereby adjourn this legislative day in memory and honor of Willard Herman Doolin and respectfully joins with Representative Jim Stewart in expressing its deepest sympathy to his loving wife, Opal Doolin; and his beloved children, Willard Gary Doolin, Kathy Gail Valentine and Sandra Lee Hinkle; his devoted brother Shirley Doolin; his cherished grandchildren, nieces and nephews; and all who share in the great loss on the passing of this fine and esteemed citizen, the son of the late James Doolin and Cledia Gibson Doolin and grandson of the late Jesse Gibson. A well-known Knox County builder for over fifty-two years and a devoted member and Sunday School Superintendent of the Heidrick Holiness Church, Mr. Doolin was a United States Army Veteran, having served during World War II. Honored and remembered on this day as an outstanding citizen of this Commonwealth, Willard Herman Doolin will be deeply missed by all those whose lives were touched by his remarkable presence. Done in Frankfort, this eighth day of March, in the year two thousand.

Legislative Citation No. 97 was adopted without objection.

Representative Marcotte moved that **HB 609** be withdrawn. Agreed.

Representative Crimm moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Crimm moved that he be recorded as voting "nay" on Floor Amendment No. 14 to **HB 611**. Agreed.

Representative Nesler moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative Nesler moved that he be recorded as voting "yea" on **HB 706**. Agreed.

Representative L. Belcher moved that the rules be suspended for the purpose of recording a vote. Agreed.

Representative L. Belcher moved that his vote be changed from "nay" to "yea" on the Committee Substitute to **HB 611**. Agreed.

Floor Amendments

The Clerk announced the filing of the following Floor Amendments:

Floor Amendment No. 1 to **HB 745**, by Representative A. Arnold:

On page 1, line 20, by deleting the words "*qualifying under this section and any procedures prescribed by the General Assembly*" and inserting "*being regular on its face*" in lieu thereof.

Floor Amendment No. 2 to **HB 750**, by Representative Cave:

On page 109, line 18, after "corporation" insert "*or labor union*"

On page 109, line 18 after "shall", insert "*, directly or indirectly by its board, shareholders, employees, agents, representatives, or members or their assets or funds,*" .

On page 109, line 20, after "corporation", insert "*, labor union, or state, county, city, or public employee*"

Floor Amendment No. 1 to **HB 911**, by Representative R. Adams:

On page 2, lines 9 to 11 by placing brackets around and striking through "Special fuel delivered into a tank having no dispensing outlet and used exclusively to heat a commercial building shall be subject to refund pursuant to KRS 138.351 to 138.355.".

Floor Amendment No. 1 Title to **SB 152**, by Representative D. Butler:

By amending the title to read as follows:

"AN ACT relating to gambling related activities."

Floor Amendment No. 1 to the Committee Substitute to **HB 996**, by Representative Ratliff:

On page 17, after line 20 but before line 21, insert the following:

"*(14) Motor vehicles assessed under KRS 132.485 shall be exempted from ad valorem tax for state purposes for assessments on or after January 1, 2001.*"; and

On page 68, after line 10 but before line 11 by inserting the following:

"Section 46. The executive branch budget bill enacted in the 2000 Regular Session of the General Assembly shall provide for an across the board reduction in each general fund appropriation unit equal to the tax reduction provided under subsection (14) of Section 6 of this Act." , and by renumbering subsequent sections.

Floor Amendment No. 2 to the Committee Substitute to **HB 996**, by Representative Ratliff:

On page 17, after line 20 but before line 21, insert the following:

"*(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:*

(a) Thirty-three and three-quarters cents ($0.3375) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date;

(b) Twenty-two and one-half cents ($0.225) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date; and

(c) Eleven and one-fourth cents ($0.1125) per one hundred dollars ($100) of assessed value for the January 1, 2003 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempted from ad valorem tax for state purposes for assessments on or after January 1, 2004."; and

On page 68, after line 10 but before line 11 by inserting the following:

"Section 46. The executive branch budget bill enacted in the 2000 Regular Session of the General Assembly shall provide for an across-the-board reduction in each general fund appropriation unit equal to the tax reduction provided under subsection (14) of Section 6 of this Act." and by renumbering subsequent sections accordingly.

Floor Amendment No. 2 to **HB 709**, by Representative Gray:

On page 3, after line 12, by inserting the following:

SECTION 5. A NEW SECTION OF KRS 311.530 TO 311.620 IS CREATED TO READ AS FOLLOWS:

(1) The State Board of Medical Licensure shall develop an individual profile of each physician holding a valid license issued under KRS 311.530 to 311.620. The board shall make the profiles available to a member of the public upon the member's written request. The profile shall be transmitted to the requesting party both in printed form and in computerized form for distribution by way of the largest nonproprietory nonprofit cooperative public computer network at no charge.

(2) Each profile shall include:

(a) The names of each medical school the physician has attended, the dates in attendance at each school, and the date of the physician's graduation;

(b) The name and location of the school or hospital where the physician is or was enrolled in a graduate medical education program, the dates of attendance, and the date of graduation;

(c) Any specialty board certification the physician has and had, the current status of each certification, and the date each certification was awarded;

(d) The jurisdictions in which the physician practices and has practiced and the years in practice in each jurisdiction;

(e) The names of the hospitals where the physician has privileges to practice;

(f) The address of the physician's primary practice;

(g) The languages, if any, in which translation services are available at the physician's primary practice location;

(h) A statement on whether or not the physician participates in the Medicaid program;

(i) The name of any medical school on whose faculty the physician serves or has served and information on whether the physician has or has had any supervisory responsibilities for graduate medical education during the immediately past ten (10) years. The information shall also include the duration of each appointment listed;

(j) A listing of each publication written by the physician that has been published in peer-review medical literature during the previous ten (10) years;

(k) Information listing the physician's professional or community service activities and awards received;

(l) A listing of all medical malpractice court judgments, arbitration awards, or insurance settlements in the immediately past ten (10) years in which a payment was awarded to a complaining party on the physician's behalf;

(m) A detailed description of any of the following disciplinary actions that have been taken against the physician in the immediately past ten (10) years:

1. A revocation or involuntary restriction of privileges to practice in a hospital, due to the physician's competence or character by the hospital's governing board or an official of the hospital, after procedural due process was afforded the physician; or

2. A resignation from or nonrenewal of the physician's staff membership or a restriction of privileges to practice at a hospital that was taken in lieu of, or in settlement of, a pending disciplinary case that relates or was related to the physician's competence or character; and

(n) A listing of the felonies or misdemeanors determined by the board to be serious misdemeanors of which the physician was convicted or to which the physician has pleaded guilty or no contest within the immediately past ten (10) years;

(3) The board shall not charge for any expenses incurred in the transmittal of the profile.

(4) Prior to releasing the profile to a member of the public, the board shall provide each physician with a copy of his or her profile, and shall allow the physician a reasonable time, as set out in administrative regulations promulgated by the board, to correct any inaccuracies that appear in the profile.

(5) (a) Any information set out in paragraph (l) of subsection (2) of this section, shall be reported in the profile in at least three (3) graduated categories indicating the level of significance of the award or settlement. The information shall be reported in context by comparing the individual's malpractice awards and settlements to

the experience of other physicians within the same specialty.

(b) The information provided under this subsection shall be disclosed with the following statement and any other clarifying information reasonably supplied by the board:

"Settlement of a claim may occur for a variety of reasons that do not necessarily reflect negatively on the professional competence or conduct of the physician. A payment in settlement of a medical malpractice action or claim shall not be construed as creating the presumption of guilt."

Section 6. KRS 311.565 is amended to read as follows:

(1) The board may:

(a) Exercise all the administrative functions of the state in the prevention of empiricism and in the regulation of the practice of medicine and osteopathy which shall include, but not be limited to, promulgation of reasonable administrative regulations enabling the board to regulate the conduct of its licensees;

(b) Promulgate reasonable administrative regulations establishing moral, physical, intellectual, educational, scientific, technical, and professional qualifications of applicants for licenses and permits that may be issued by the board;

(c) Issue, deny, suspend, limit, restrict, and revoke any licenses or permits that may be issued by the board, and to reprimand or to place licensees on probation, in compliance with the provisions of KRS 311.530 to 311.620;

(d) Appoint an executive director and assistant executive directors and fix their compensation. The executive director shall oversee the work of the board, shall be authorized to discharge the duties of the secretary, as provided by KRS 311.530 to 311.620, and shall carry out the duties of the executive director as set forth elsewhere in this chapter;

(e) Appoint a general counsel and assistant general counsel and fix their compensation;

(f) Appoint investigatory personnel and fix their compensation;

(g) Appoint one (1) or more hearing officers, who need not be members of the board, and fix their compensation. Every hearing officer shall be vested with the full and complete power and authority of the board to schedule and conduct hearings on behalf of and in the name of the board on all matters referred for hearing by the board or secretary thereof, including, among other things, proceedings for placing licensees on probation and for limitation, suspension, and revocation of licenses. All administrative hearings conducted by the board, a member of the board, or a hearing officer appointed by the board, shall be conducted in accordance with KRS Chapter 13B. No hearing officer shall be empowered to place any licensee on probation or to issue, refuse, suspend, limit, or revoke any license;

(h) Appoint committees of licensees, who need not be board members, to review issues of public or medical interest before the board and to make recommendations to the board on the issues;

(i) Promulgate administrative regulations to promote the efficient and fair conduct of disciplinary proceedings;

(j) Promulgate a code of conduct governing the practice of medicine and osteopathy, which shall be based upon generally-recognized principles of professional ethical conduct;

(k) Utilize the services and facilities of professional organizations, and procure and receive the assistance and recommendations of professional organizations in administering KRS 311.530 to 311.620;

(l) Make its personnel and facilities available to other governmental entities under mutually agreeable terms and conditions;

(m) Issue regular licenses without further testing by endorsement from another state having qualifications and standards at least as high as those of this state or by endorsement from the National Board of Medical Examiners, the National Board of Examiners for Osteopathic Physicians and Surgeons, the National Gaint Committee of Preregistration Physician Training Programs, or any approved successors thereof;

(n) Issue and renew regular licenses to practice medicine or osteopathy in accordance with KRS 311.530 to 311.620 and any reasonable regulations of the board;

(o) Issue and renew,[~~or~~] refuse to issue or renew, or cancel and terminate limited licenses pursuant to administrative regulations promulgated by the board; provided however, no person who held a limited license for institutional practice or general practice as of September 1, 1972, shall be denied the renewal of that limited license for nondisciplinary reasons;

(p) Appoint examiners, who need not be members of the board, and employ or contract with the Federation of State Medical Boards of the United States, Inc., or the National Board of Medical Examiners or other organizations, agencies, or individuals to prepare examination questions and grade examination papers;

(q) Determine the schools, colleges, universities, institutions, and training acceptable in connection with licensure under KRS 311.530 to 311.620;

(r) Prescribe the time, place, method, manner, scope, and content of examinations, but at least two (2) examinations shall be held annually;

(s) Prescribe all forms which it considers appropriate, and require the submission of photographs, fingerprints, and personal history data;

(t) Prescribe and collect reasonable fees and charges for examinations, directories, and the issuance and renewal of licenses and permits;~~[and]~~

(u) Impose fines of not greater than five thousand dollars ($5,000) per violation upon a finding pursuant to disciplinary proceedings that the licensee has violated any provision of KRS 311.595 to 311.597 or duly-promulgated disciplinary regulation of the board*; and*

(v) Develop an individual profile of each physician holding a license under KRS 311.530 to 311.620 that is in accordance with Section 1 of this Act.

(2) The board shall develop specific guidelines to follow upon receipt of an allegation of sexual misconduct by a physician licensed by the board. The guidelines shall include investigation, inquiry, and hearing procedures which ensure that the process does not revictimize the alleged victim or cause harm if a physician is falsely accused.

(3) The board, the hearing officer, and investigators hired by the board shall receive training on the dynamics of sexual misconduct of professionals, including the nature of this abuse of authority, characteristics of the offender, the impact on the victim, the possibility and the impact of false accusations, investigative procedure in sex offense cases, and effective intervention with victims and offenders.

Floor Amendment No. 23 to the Committee Substitute to **HB 611**, by Representative Ratliff:

On page 16, line 21, before "Section 12." by inserting "SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "Coal Severance Tax Reimbursement Fund" is created in the State Treasury. The fund shall receive all money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654.

(2) Money in the coal severance tax reimbursement fund shall be annually allocated to counties that have ever been the site of coal extraction or processing which has generated revenues to the state pursuant to KRS 143.020. The allocations shall reimburse the county for all coal severance taxes ever generated from the county and paid to the state. The reimbursement shall include legal interest. The reimbursement shall be limited to the coal severence taxes not already returned to the county.

(3) After all severance taxes have been reimbursed, the money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654, shall be allocated as set out in Sections 1 to 11 of this Act."; and

on line 21, by renumbering "Section 12." as "Section 13."; and

on line 22, by renumbering "Section 13." as "Section 14.".

Floor Amendment No. 24 to the Committee Substitute to **HB 611**, by Representative Ratliff:

On page 16, line 21, before "Section 12." by inserting "SECTION 12. A NEW SECTION OF KRS CHAPTER 248 IS CREATED TO READ AS FOLLOWS:

(1) The "Unmined Minerals Tax Reimbursement Fund" is created in the State Treasury. The fund shall receive all money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654.

(2) Money in the unmined minerals tax reimbursement fund shall be annually allocated to counties that have ever had land assessed for the value of unmined coal for the purposes of the state unmined minerals tax. The allocations shall reimburse the county for all unmined minerals taxes collected on coal reserves generated from the county and paid to the state. The reimbursement shall include legal interest. The reimbursement shall be limited to the unmined minerals taxes not already returned to the county.

(3) After all unmined minerals taxes collected on coal reserves have been reimbursed, the money from the Master Settlement Agreement allocated to the tobacco settlement agreement fund, created in KRS 248.654, shall be allocated as set out in Sections 1 to 11 of this Act."; and

on line 21, by renumbering "Section 12." as "Section 13."; and

on line 22, by renumbering "Section 13." as "Section 14.".

Floor Amendment No. 5 to the Committee Substitute to **HB 537**, by Representative Damron:

On page 5, line 6, by inserting after the word "means" the following: "*:*

(a) Prior to July 1, 2001,"; and

On page 5, line 13, after "member;" by inserting the following:

"***(b) On and after July 1, 2001, an amount paid by an employee for service which shall be calculated by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased. Notwithstanding any other statute to the contrary, the delayed contribution payment shall be used to determine the cost of all service purchased by the employee except for refunds, contributions not reported, and conversions of nonhazardous service to hazardous service. The payment shall not be picked up by the employer and shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;***"; and

On page 21, line 24, by inserting after the word "means" the following: "***:***

(a) Prior to July 1, 2001,"; and

On page 22, line 5, after "KRS 212.434;" by inserting the following:

"***(b) On and after July 1, 2001, an amount paid by an employee for service which shall be calculated by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased. Notwithstanding any other statute to the contrary, the delayed contribution payment shall be used to determine the cost of all service purchased by the employee except for refunds, contributions not reported, and conversions of nonhazardous service to hazardous service. The payment shall not be picked up by the employer and shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;***"; and

On page 107, line 2, by inserting after the word "means" the following: "***:***

(a) Prior to July 1, 2001,"; and

On page 107, line 10, after "KRS 212.434;" by inserting the following:

"***(b) On and after July 1, 2001, an amount paid by an employee for service which shall be calculated by multiplying the higher of the employee's current rate of pay, final rate of pay, or final compensation as of the end of the month in which the purchase is made, times the actuarial factor, times the number of years of service being purchased. Notwithstanding any other statute to the contrary, the delayed contribution payment shall be used to determine the cost of all service purchased by the employee except for refunds, contributions not reported, and conversions of nonhazardous service to hazardous service. The payment shall not be picked up by the employer and shall be deposited to the member's contribution account and considered as accumulated contributions of the individual member;***".

Floor Amendment No. 3 to **HB 757**, by Representative Damron:

On page 12, after line 2, by adding:

"Section 9. KRS 304.17A-0952 is amended to read as follows:

Premium rates for a health benefit plan issued or renewed to an individual, a small group, or an association on or after April 10, 1998, shall be subject to the following provisions:

(1) The premium rates charged during a rating period to an individual with similar case characteristics for the same coverage, or the rates that could be charged to that individual under the rating system for that class of business, shall not vary from the index rate by more than thirty-five percent (35%) of the index rate.

(2) The percentage increase in the premium rate charged to an individual for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed ten percent (10%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claim experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the individual and dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the individual as determined from the insurer's rate manual for the class of business.

(3) (a) Notwithstanding subsection (2) of this section, at renewal the insurer may replace modified community rates with rates determined in accordance with subsection (1) of this section.

(b) Within the limitations set out in subsections (1) and (2) of this section, the premium rate for health benefit plans issued to high-risk individuals under modified community rating who at the time of issue had a high-cost condition during the period from July 15, 1995, until April 10, 1998, for a new rating period:

1. Shall not be increased by more than twenty-five percent (25%) on either of the first two (2) renewal dates

after April 10, 1998. The total increase shall not result in a rate that exceeds thirty-five percent (35%) of the index rate. Notwithstanding subsection (1) of this section, the program established under KRS 304.17A-400 shall reimburse the insurer for any premium loss incurred under this subsection to the extent that funds are available;

2. May be increased without restriction to the applicable rate as determined by the insurer's rate manual on the third renewal date after April 10, 1998; and

3. Shall be subject to subsection (2) of this section on the fourth renewal date after April 10, 1998, and thereafter.

(4) The premium rates charged during a rating period to a small group or to an association member with similar case characteristics for the same coverage, or the rates that could be charged to that small group or that association member under the rating system for that class of business, shall not vary from the index rate by more than twenty-five percent (25%) of the index rate.

(5) The percentage increase in the premium rate charged to a small group or to an association member for a new rating period shall not exceed the sum of the following:

(a) The percentage change in the new business premium rate measured from the first day of the prior rating period to the first day of the new rating period. In the case of a class of business for which the insurer is not issuing new policies, the insurer shall use the percentage change in the base premium rate;

(b) Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating periods of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the employee, association member, or dependents as determined from the insurer's rate manual for the class of business; and

(c) Any adjustment due to change in coverage or change in the case characteristics of the small group or association member as determined from the insurer's rate manual for the class of business.

(6) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(7) Adjustments in rates for claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, health status, and duration of coverage shall not be charged to an individual group member or the member's dependents. Any adjustment shall be applied uniformly to the rates charged for all individuals and dependents of the small group.

(8) The commissioner may approve establishment of additional classes of business upon application to the commissioner and a finding by the commissioner that the additional class would enhance the efficiency and fairness for the applicable market segment.

(a) The index rate for a rating period for any class of business shall not exceed the index rate for any other class of business in that market segment by more than ten percent (10%).

(b) An insurer may establish a separate class of business only to reflect substantial differences in expected claims experience or administrative cost related to the following reasons:

1. The insurer uses more than one (1) type of system for the marketing and sale of the health benefit plans; or

2. The insurer has acquired a class of business from another insurer.

(9) For the purpose of this section, a health benefit plan that utilizes a restricted provider network shall not be considered similar coverage to a health benefit plan that does not utilize a restricted provider network if utilization of the restricted provider network results in substantial differences in claims costs.

(10) Notwithstanding any other provision of this section, an insurer shall not be required to utilize the experience of those individuals with high-cost conditions who enrolled in its plans between July 15, 1995, and April 10, 1998, to develop the insurer's index rate for its individual policies.

(11) Nothing in this section shall be construed to prevent an insurer from offering incentives to participate in a program of disease prevention or health improvement.

(12) Nothing in this section shall be construed to apply to any health benefit plan issued or renewed to an employer-organized association or to any health benefit plan providing benefits to an individual, employer, small group, or other person on account of that person's status as a member of an employer-organized association.

Section 10. KRS 304.17A-0954 is amended to read as follows:

(1) For purposes of this section:

(a) "Base premium rate" has the meaning provided in KRS 304.17A-005;

(b) "Employer" means a person engaged in a trade or business who has two (2) or more employees within the state in each of twenty (20) or more calendar weeks in the current or preceding calendar year;

(c) "Employer-organized association" means any of the following:

1. Any entity which was qualified by the commissioner as an eligible association prior to April 10, 1998, and which has actively marketed a health insurance program to its members after September 8, 1996, and which is not insurer-controlled;

2. An entity organized under KRS 247.240 to 247.370 that has actively marketed health insurance to its members and which is not insurer-controlled; or

3. Any entity which is a bona fide association as defined in 42 U.S.C. sec. 300gg-91(d)(3), whose members consist principally of employers, and for which the entity's health insurance decisions are made by a board or committee the majority of which are representatives of employer members of the entity who obtain group health insurance coverage through the entity or through a trust or other mechanism established by the entity, and whose health insurance decisions are reflected in written minutes or other written documentation;

(d) "Index rate" ***means, for each class of business as to a rating period, the arithmetic average of the applicable base premium rate and the corresponding premium rate. Where an employer-organized association has some members who are not employers, the employer-organized association may establish a separate index rate for its members who are not employers and that separate index rate shall comply with this section*** ~~[has the meaning provided in KRS 304.17A-005]~~.

(2) Notwithstanding any other provision of this chapter, ***including but not limited to KRS 304.17A-0952,*** the amount or rate of premiums for an employer-organized association health plan may be determined, subject to the restrictions of subsection (3) of this section ***and the exemption of subsection (6) of this section***, based upon the experience or projected experience of the employer-organized associations whose employers ***or other members*** obtain group coverage under the plan. Without the written consent of the employer-organized association filed with the commissioner, the index rate for the employer-organized association shall be calculated solely with respect to that employer-organized association and shall not be tied to, linked to, or otherwise adversely affected by any other index rate used by the issuing insurer.

(3) The following restrictions shall be applied in calculating the permissible amount or rate of premiums for an employer-organized health insurance plan:

(a) The premium rates charged during a rating period to members of the employer-organized association with similar characteristics for the same or similar coverage, or the premium rates that could be charged to a member of the employer-organized association under the rating system for that class of business, shall not vary from its own index rate***:***

1. By more than thirty-five percent (35%) of the index rate for its own members who are not employers if the employer-organized association elects to establish a separate index rate for the non-employer members;

2. By more than twenty-five percent (25%) of its own index rate ***in all other cases to which this subsection applies***.

(b) The percentage increase in the premium rate charged to an employer ***or other*** member of an employer-organized association for a new rating period shall not exceed the sum of the following:

1. The percentage change in the new business premium rate for the employer-organized association measured from the first day of the prior rating period to the first day of the new rating period;

2. Any adjustment, not to exceed fifteen percent (15%) annually and adjusted pro rata for rating period of less than one (1) year, due to the claims experience, mental and physical condition, including medical condition, medical history, and health service utilization, or duration of coverage of the member as determined from the insurer's rate manual; and

3. Any adjustment due to change in coverage or change in the case characteristics of the member as determined by the insurer's rate manual.

(c) An employer-organized association that has established a separate index rate for its own members who are not employers may calculate a separate maximum percentage increase in the premium rate under paragraph (b) of this subsection for members who are not employers.

(4) In utilizing case characteristics, the ratio of the highest rate factor to the lowest rate factor within a class of business shall not exceed five to one (5:1). For purpose of this limitation, case characteristics include age, gender, occupation or industry, and geographic area.

(5) For the purpose of this section, a health insurance contract that utilizes a restricted provider network shall not be considered similar coverage to a health insurance contract that does not utilize a restricted provider network if utilization of the restricted provider network results in measurable differences in claims costs.

(6) The restrictions of subsections (3) and (4) of this section shall not apply to an employer member of an employer-organized association health plan that has more than fifty (50) employees within the state in each of twenty (20) or

more calendar weeks in the current or preceding calendar year.".

Floor Amendment No. 1 to the Committee Substitute to **HB 366**, by Representative Burch:

On page 8, line 2, by deleting "***completed within***" and by removing the brackets and strikethroughs around "~~[for]~~";

On page 8, lines 5 through 8, by deleting all underlined language; and

On page 8, line 13, by deleting "***shall***" and by removing the brackets and strikethroughs around "~~[may]~~".

Floor Amendment No. 3 to the Committee Substitute to **HB 996**, by Representative Moberly:

On page 67, line 16, by deleting "***communication excise tax on***"; and

On page 67, line 17, by deleting "***service***" and inserting in lieu thereof "***services, subject to the communication service excise tax imposed under Section 8 of this Act and deducted for federal income tax purposes,***" and by deleting "***exceeds***" and inserting "***exceed***"; and

On page 67, line 19, by deleting "***the difference between***"; and

On page 67, line 20, after "***on***" by inserting "***the difference by which the interstate***" and by deleting "***intestate***" and after "***service***" by inserting "***purchased***" and after "***business***" by inserting "***exceeds***" and by deleting "***and***"; and

On page 67, line 23, after "***an***" by inserting "***annual***" and after "***refund***" by inserting "***on or after***" and by deleting the remainder of the line in its entirety; and

On page 67, line 24, after "2002" by inserting "***, and***", and by deleting "***before***" and inserting in lieu thereof "***after***"; and

On page 68, after line 10 but before line 11 by inserting the following;

"***(6) If a business owns directly or indirectly fifty percent (50%) or more of another business, the credit computed under subsection (2) of this section shall be computed on a combined basis, excluding any intercompany Kentucky gross receipts.***".

Floor Amendment No. 2 to the Committee Substitute to **HB 439**, by Representative Barrows:

On page 5, between lines 24 and 25 by inserting the following:

"***(6) Any judge who was in office on January 1, 1998, shall be eligible for Senior Judge status.***".

Floor Amendment No. 4 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 34, line 15, after "***June 30, 1999.***" by adding "***If a political subdivision does not impose the taxes authorized under KRS 160.613 and 160.614, it shall certify what the tax would have been if it had imposed these taxes, and this amount shall be used in the computation of that political subdivision's portion of the "monthly hold harmless amount."***".

Floor Amendment No. 5 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"***(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:***

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.", and

On page 52, line 13, after "138.480" by inserting "***; and***

(d) The sale of lottery tickets by the Kentucky Lottery Corporation".

Floor Amendment No. 6 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 68 between lines 10 and 11, insert the following:

"Section 46. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at

retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)~~[;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243]~~.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 47. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ and upon all distributors of beer at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky." and

Renumber subsequent sections accordingly.

Floor Amendment No. 7 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"***(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:***

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.", and

On page 52, line 13, after "138.480" by inserting "***; and***

(d) The sale of lottery tickets by the Kentucky Lottery Corporation", and

On page 68 between lines 10 and 11, insert the following:

"Section 46. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)~~[;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243]~~.

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 47. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ and upon all distributors of beer at the rate of ***six***~~[nine]~~ percent ***(6%)***~~[(9%)]~~ of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax

levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky." and

Renumber subsequent sections accordingly.

Floor Amendment No. 8 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"***(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:***

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.", and

On page 52, line 13, after "138.480" by inserting "***;***

(d) The sale of lottery tickets by the Kentucky Lottery Corporation; and

(e) The sale of charitable game tickets, raffles, or any other ticket or right of admission to participate in charitable gaming as defined in KRS 238.505";

On page 68, between lines 10 and 11, insert the following:

"SECTION 46. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and shall disregard household income to the extent that families who otherwise qualify, and who have income at or below one hundred fifty percent (150%) of the federal poverty level, as adjusted annually by the Federal Department for Health and Human Services, shall be eligible for Medicaid coverage.

(2) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works mor than one hundred (100) hours per month, if the family is otherwise eligible.

Section 47. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)[~~;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243~~].

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 48. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of ***six***[~~nine~~] percent ***(6%)***[~~(9%)~~] and upon all distributors of beer at the rate of ***six***[~~nine~~] percent ***(6%)***[~~(9%)~~] of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky." and

Renumber subsequent sections accordingly.

Floor Amendment No. 9 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"***(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:***

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.", and

On page 52, line 13, after "138.480" by inserting "***; and***

(d) The sale of lottery tickets by the Kentucky Lottery Corporation;", and

On page 68, between lines 10 and 11, insert the following:

"SECTION 46. A NEW SECTION OF KRS 205.510 TO 205.630 IS CREATED TO READ AS FOLLOWS:

(1) The Cabinet for Health Services shall exercise its option under the Federal Personal Responsibility and Work Opportunity Reconciliation Act of 1996 and shall disregard household income to the extent that families who otherwise qualify, and who have income at or below one hundred fifty percent (150%) of the federal poverty level, as adjusted

annually by the Federal Department for Health and Human Services, shall be eligible for Medicaid coverage.

(2) The cabinet shall not exclude from coverage under this section two-parent families in which a parent works more than one hundred (100) hours per month, if the family is otherwise eligible.

Section 47. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)[~~;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243~~].

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 48. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby imposed upon all wholesalers of wine and distilled spirits at the rate of ***six***[~~nine~~] percent ***(6%)***[~~(9%)~~] and upon all distributors of beer at the rate of ***six***[~~nine~~] percent ***(6%)***[~~(9%)~~] of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky." and

Renumber subsequent sections accordingly.

Floor Amendment No. 10 to the Committee Substitute to **HB 996**, by Representative Anderson:

On page 17, after line 20 but before line 21, by inserting the following:

"***(14) Motor vehicles assessed under KRS 132.485 shall pay an ad valorem tax for state purposes of:***

(a) Thirty cents ($0.30) per one hundred dollars ($100) of assessed value for the January 1, 2001 assessment date; and

(b) Fifteen cents ($0.15) per one hundred dollars ($100) of assessed value for the January 1, 2002 assessment date.

(15) Motor vehicles assessed under KRS 132.485 shall be exempt from ad valorem tax for state purposes on and after the January 1, 2003 assessment date.", and

On page 68, between lines 10 and 11, insert the following:

"Section 46. KRS 139.050 is amended to read as follows:

(1) "Gross receipts" means the total amount of the sale, lease, or rental price, as the case may be, of "retail sales," or "sales at retail," valued in money, whether received in money or otherwise, without any deduction on account of any of the following:

(a) The cost of the property sold. However, in accordance with rules and administrative regulations as the cabinet may prescribe, a deduction may be taken if the retailer has purchased property for some purpose other than resale, has reimbursed his vendor for tax which the vendor is required to pay to the state, or has paid the use tax with respect to the property, and has resold the property prior to making any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business. If a deduction is taken by the retailer, no refund or credit will be allowed to his vendor with respect to the sale of the property;

(b) The cost of the materials used, labor or service cost, interest paid, losses, or any other expense;

(c) The cost of transportation of the property prior to its sale to the purchaser.

(2) The total amount of the sale or lease or rental price includes all of the following:

(a) Any services that are a part of the sale;

(b) All receipts, cash, credits, and property of any kind;

(c) Any amount for which credit is allowed by the seller to the purchaser, other than credit for property traded when the property so traded is of like kind and character to the property purchased and the property traded is held for resale.

(3) "Gross receipts" do not include any of the following:

(a) Cash discounts allowed and taken on sales (provided that premium or trading stamps shall not be considered as cash discounts);

(b) Sale price of property returned by customers when the full sale price is refunded either in cash or credit; but this exclusion shall not apply in any instance when the customer, in order to obtain the refund, is required to purchase other property at a price greater than the amount charged for the property that is returned;

(c) The price received for labor or services used in installing or applying the property sold;

(d) The amount of any tax (not including, however, any manufacturer's excise or import duty) imposed by the United States upon or with respect to retail sales, whether imposed upon the retailer or the consumer;

(e) Sales of gasoline and special fuels subjected to tax under KRS Chapter 138;

(f) The sales price of any motor vehicle as defined by KRS 138.450 which is registered for use on the public highways and upon which any applicable tax levied under KRS 138.460 has been paid; or, the sales price of vehicles defined under KRS 189.010(12) and 189.010(17)[~~;~~

~~(g) Sales of distilled spirits, wine, and malt beverages not consumed on the premises licensed for their sale under the provisions of KRS Chapter 243~~].

(4) For purposes of the sales tax, if the retailer establishes to the satisfaction of the cabinet that the sales tax has been added to the total amount of the sale price and has not been absorbed by the retailer, the total amount of the sale price shall be deemed to be the amount received exclusive of the tax imposed.

Section 47. KRS 243.884 is amended to read as follows:

(1) For the privilege of making "wholesale sales" or "sales at wholesale" of beer, wine, or distilled spirits, a tax is hereby

imposed upon all wholesalers of wine and distilled spirits at the rate of *six*[~~nine~~] percent *(6%)*[~~(9%)~~] and upon all distributors of beer at the rate of *six*[~~nine~~] percent *(6%)*[~~(9%)~~] of the gross receipts of any such wholesaler or distributor derived from "sales at wholesale" or "wholesale sales" made within the Commonwealth except as provided in subsection (2) of this section. Wholesalers of distilled spirits and wine and distributors of malt beverages shall pay and report the tax levied by this section on or before the 20th day of the calendar month next succeeding the month in which possession or title of the distilled spirits, wine or malt beverages is transferred from the wholesaler or distributor to retailers or consumers in this state, in accordance with rules and regulations of the Revenue Cabinet designed reasonably to protect the revenues of the Commonwealth.

(2) Gross receipts from sales at wholesale or wholesale sales shall not include the following sales:

(a) Sales made between wholesalers or between distributors;

(b) Sales made by a small winery or farm winery or wholesaler of wine produced by a small winery or farm winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are produced in Kentucky;

(c) Until June 30, 1999, sales from a small winery or wholesaler of wine produced by a small winery, if the grapes, grape juice, other fruits, other fruit juices, or honey from which the wine is made are not produced in Kentucky." and

Renumber subsequent sections accordingly.

Motions, Petitions, and Communications (Continued)

The following members filed requests to have their names added as co-sponsors of Bills and Resolutions under rules previously suspended:

HB 36: Representative Palumbo

HB 268: Representative Stewart

HB 640: Representative Stewart

HB 667: Representative Palumbo

HB 675: Representatives Colter, Gooch

HB 749: Representative Palumbo

HB 823: Representative Westrom

HB 852: Representatives J. Adams, Anderson, Bowling, Cornett, Graham, Haydon, Palmer

HB 866: Representative Cherry

HB 872: Representative Stewart

HB 881: Representative Hoffman

HCR 114: Representative Colter

HJR 132: Representatives Cherry, Geveden

Announcements

The following meetings were announced:

Labor and Industry, March 9, 2000, upon adjournment, Room 129

Budget Review Subcommittee on Economic Development, March 9, 2000, noon

Appropriations and Revenue, March 8, 2000, upon adjournment, regular meeting room

Local Government, March 9, 2000, 8:00 a.m.

Education, March 8, 2000, upon adjournment

The following meeting was canceled:

Judiciary, March 8, 2000

Adjournment

Representative Stumbo moved that the House adjourn until 2:00 p.m., March 9, 2000.

The motion that the House adjourn until 2:00 p.m., March 9, 2000, was adopted by voice vote.